

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DOUGLAS MESADIEU, individually and
d/b/a LBS TAX SERVICES, MILESTONE
TAX SERVICES, TAX ADVANCE, INC.,
PLATINUM CAPITAL GROUP, INC.,
PRINCETON CAPITAL GROUP, INC.,
GALLEON CAPITAL GROUP, INC.,
SANTA MARIA GROUP, INC., and
TAX AID, LLC,

Defendant.

Civil No.

6:14-cv-1538-ORL-31-TBS

2014 SEP 23 14:23

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

The United States of America, for its complaint against Douglas Mesadieu, individually and doing business as LBS Tax Services, Milestone Tax Services, Tax Advance, Inc., Platinum Capital Group, Inc., Princeton Capital Group, Inc., Galleon Capital Group, Inc., Santa Maria Group, Inc., and Tax Aid, LLC, alleges as follows:

1. This is a civil action brought by the United States under I.R.C. (26 U.S.C.) §§ 7402, 7407, and 7408 to enjoin Mesadieu, and anyone in active concert or participation with him, from:

- (1) acting as a federal tax return preparer or requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than himself;
- (2) preparing or assisting in preparing federal tax returns that he knows or reasonably should know would result in an understatement of tax liability or the overstatement of federal tax refund(s) as penalized by I.R.C. § 6694;

- (3) owning, operating, managing, working in, controlling, licensing, consulting with, or franchising a tax return preparation business;
- (4) training, instructing, teaching, and creating or providing cheat sheets, memoranda, directions, instructions, or manuals, pertaining to the preparation of federal tax returns;
- (5) engaging in any other activity subject to penalty under I.R.C. §§ 6694, 6695, 6701, or any other penalty provision in the I.R.C.; and
- (6) engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

This action also seeks, under I.R.C. § 7402, an order requiring Mesadieu to disgorge to the United States the proceeds that Mesadieu and his businesses received for the preparation of federal tax returns that make false or fraudulent claims.

Jurisdiction and Venue

2. This action has been requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General, pursuant to I.R.C. §§ 7402, 7407, and 7408.

3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and I.R.C. § 7402.

4. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) because the Defendant resides in this district and a substantial portion of the activities occurred within this district.

Defendant

5. Douglas Mesadieu resides in Orlando, Florida. Mesadieu is a franchisee of LBS Tax Services. Mesadieu is the sole owner of Tax Advance, Inc., Platinum Capital Group, Inc., Princeton Capital Group, Inc., Galleon Capital Group, Inc., Santa Maria Group, Inc., and Tax Aid, LLC. Through these entities, Mesadieu owns and operates 46 tax return preparation stores

in Florida, Georgia, and Texas. In 2013, Mesadieu operated 21 stores in Florida, 10 stores in Georgia, and 15 stores in Texas.

6. LBS Tax Services is a tax return preparation business that Walner G. Gachette franchises through Loan Buy Sell, Inc., a corporation organized in the State of Florida. In 2013, there were at least 239 LBS Tax Service stores in Florida, Georgia, North Carolina, Tennessee, Alabama, Mississippi, and Texas. LBS Tax Services franchise stores prepared over 55,000 federal income tax returns in 2013.

7. Milestone Tax Services is a tax return preparation business created by Mesadieu. In 2014, following a lawsuit filed by the State of Texas in 2013 alleging violations of the Texas Deceptive Trade Practices Act for tax return preparation fees charged at Mesadieu's LBS stores, Mesadieu's stores began operating under the name Milestone Tax Services. According to its website, Milestone Tax Services has "over 45 locations in Florida, Texas, and Georgia."

8. This lawsuit is one of several being filed simultaneously against the LBS franchisor and LBS Tax Services franchisees, managers, and preparers (and/or former LBS Tax Services franchisees, managers, and preparers operating under new business names) seeking injunctive relief under the Internal Revenue Code. The other cases filed on this date are: *United States v. Walner G. Gachette* (M.D. Fla.); *United States v. Jean R. Demesmin, et al.* (M.D. Fla.); *United States v. Kerny Pierre-Louis, et al.* (M.D. Fla.); *United States v. Demetrius Scott* (M.D. Fla.); *United States v. Jason Stinson* (M.D. Fla.); *United States v. Wilfrid Antoine* (S.D. Fla.); and *United States v. Jacqueline Nunez* (S.D. Fla.).

LBS Tax Services' Business Structure

9. LBS Tax Services ("LBS") began in 2008 as a tax return preparation business in Orlando operated by Walner Gachette. In 2011, Gachette began franchising the LBS name to his employees to broaden his revenue base.

10. Mesadieu began working at LBS as a District Sales Manager ("DSM") in 2009. As a DSM, Mesadieu managed an LBS store that Gachette owned. After working two years as a DSM, Mesadieu became an LBS franchisee in 2011. As a franchisee, Mesadieu owned 8 LBS stores in 2012 and 46 LBS stores in 2013.

11. LBS's stated goal is to have 1,000 tax return preparation stores by 2016.

12. Mesadieu, like most LBS franchisees, lives in the Orlando area but has opened LBS stores elsewhere in Florida and out-of-state in order to expand the LBS brand.

13. Mesadieu created Tax Advance, Inc. because Gachette requires that franchisees create LLCs or corporations through which they own their stores. In 2012, Mesadieu created three corporations to each own stores in a specific state (Platinum Capital Group, Inc. – Texas, Princeton Capital Group, Inc. – Florida, and Galleon Capital Group, Inc. – Georgia), as well as Santa Maria Group, Inc. In 2013, Mesadieu created Tax Aid, LLC.

14. Each of Mesadieu's individual tax return preparation stores is managed by a District Sales Manager who works for Mesadieu. DSMs, in turn, oversee office managers, tax return preparers, and marketers (employees whose sole job is to solicit customers). Mesadieu also has an assistant who serves as an intermediary between Mesadieu and the DSMs.

15. LBS lures prospective employees with promises of wealth and possible rapid advancement to franchisee level. One recruiting advertisement for LBS uses a graph to show

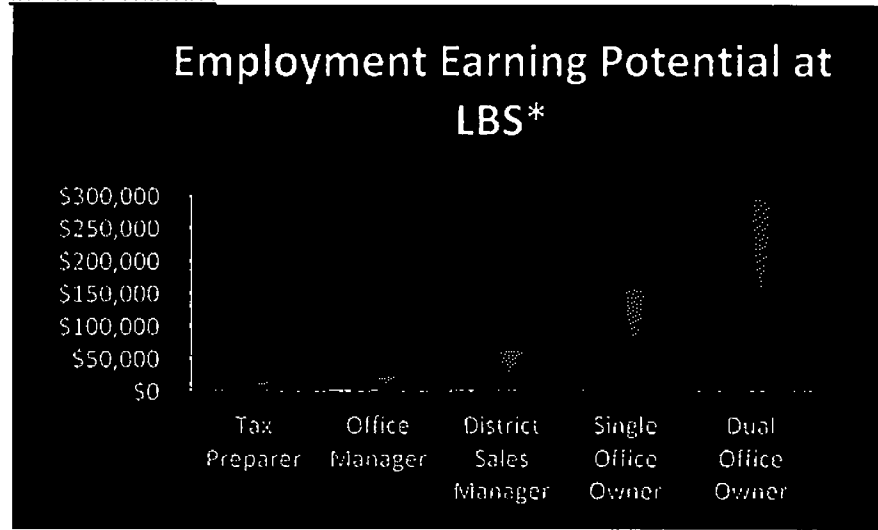
that for 4 months of work, LBS employees have the following earning potentials:

On-Site job training / Rapid advancement opportunity / Complimentary company

cell phone while employed / Most be self-motivated/ Will be IRS certified

*Located at LBS***

INCOME POTENTIAL



Tax Preparer	\$5,000	\$10,000
Office Manager	\$10,000	\$15,000
DSM	\$25,000	\$66,000
Single Office Owner	\$90,000	\$160,000
Dual Office Owner	\$200,000	\$400,000

IN 4 MONTHS



16. Mesadieu worked as a DSM for two years before Gachette offered him the opportunity to become a franchisee. This ensured that Mesadieu was familiar with LBS's business model and fraudulent practices. Pursuant to the LBS business model, Mesadieu's DSMs are expected to become franchisees after two years working for Mesadieu in that position.

17. The DSMs and the tax return preparers that Mesadieu employs are not required to have any tax return preparation experience, knowledge of federal tax laws or accounting, or minimum education. Rather, the focus is on finding potential employees who have "customer service" experience.

18. According to LBS, an LBS tax preparer's job is "60% outside marketing and 40% tax filing." LBS's emphasis on marketing, rather than tax return preparation, is apparent.

19. On December 14, 2010, Mesadieu and Gachette signed a "Franchise Disclosure Document" and "Lbs Tax Service Addendum to Franchise Agreement." According to the Franchise Disclosure Document, Mesadieu was required to pay a \$15,000 franchise fee.

20. In 2012, Mesadieu signed another franchise agreement, titled a "General Independent Contractor Agreement," with Loan Buy Sell, Inc. that defines the relationship between the parties. The agreement requires Mesadieu to pay Gachette a \$5,000 franchising fee and \$5,000 marketing fee for every LBS store he owns, and \$50 "or more" in "service bureau" and "LBS transmittal" fees for each tax return filed. The terms disguise the nature of these fees from customers – there is no "service bureau," nor is there any "transmittal" cost. In 2013, these two fees totaled \$74 for each tax return filed.

21. Essentially, the \$5,000 franchise fee is for "buying" a zip code from LBS, as Gachette limits LBS to two stores per zip code. Gachette recommends zip codes to franchisees where he believes new LBS stores should be opened based on demographic studies. LBS seeks to have most, if not all, of its offices in areas with lower income taxpayers.

22. Franchisees, including Mesadieu, are required to use (and pay for) the LBS advertising and marketing created by Gachette. Franchisees select a marketing package that may include, among other things, business cards, flyers, and yard signs.

23. Mesadieu and his District Sales Managers enter into contracts, similar to the franchise agreements described above. Loan Buy Sell, Inc. is also a party to these contracts. The contract provides that payments are made to the DSM based on the number of customers at the DSM's store; the more customers that a store secures, the greater the financial benefit to the

DSM, including a \$3,000 bonus if the store secures more than 500 customers. DSMs are also required to pay a fee, varying from \$2,500 to \$15,000 or more. The fee amount that a DSM contributes is dependent on LBS's classification of the DSM as a 15 percent, 25 percent, 70 percent, or other percentage stakeholder in the store that the DSM manages. The DSM's stake in his or her LBS store increases each year as steps towards becoming a franchisee.

24. Mesadieu and LBS emphasize the volume of tax returns as opposed to the accuracy. For example, the contract between Mesadieu and DSMs provides that a DSM can be fired if by **January 18** the projected number of fees generated by tax returns to be filed by the DSM's store is less than \$35,000. The number is projected because the IRS does not allow returns to be filed until after this date - the IRS began accepting 2012 tax returns on January 30, 2013. In other words, before tax return filing is even permitted, DSMs are supposed to have solicited a sufficient number of customers to generate \$35,000 in fees.

25. Mesadieu's DSMs, in turn, hire tax return preparers and enter into employment agreements with the preparers that set forth, among other things, compensation and a two-year non-compete agreement. Mesadieu's DSMs are purportedly required to train their tax return preparers based on the purported training that the DSMs received from Mesadieu and in Orlando from LBS.

26. Mesadieu and LBS franchisees use tax return preparation software selected by Gachette which automatically deducts the customers' tax return preparation fees from customers' tax refunds. By mandating that LBS's fees be deducted from refunds rather than requiring payment when the tax return is prepared, Gachette effectively requires that LBS prepares tax returns for customers that result in the customer receiving a tax refund, even in instances where legally the customer is not due a refund.

LBS Tax Services' "Training" and Lack of Quality Control

27. LBS does not provide any substantive tax law training. Gachette and other LBS-affiliated individuals provide week-long training to LBS franchisees and DSMs annually at an LBS facility in Orlando. This training focuses on LBS policies, particularly how to market to potential customers and solicit business, how to manage employees, and how to use the tax return preparation software.

28. Gachette holds frequent meetings and conference calls with franchisees, including Mesadieu, and DSMs. These meetings or calls may discuss, among other things, LBS policies, fees, and marketing. Gachette also provides copies of LBS's training and policy materials to franchisees and DSMs who attend these meetings, in addition to having franchisees and DSMs give presentations. Gachette emails (or directs his assistants to email) the LBS training and policy materials to franchisees and DSMs to ensure that anyone who does not participate in the in-person training or other meetings in Orlando has access to his training materials and copies of LBS's policies.

29. Mesadieu and his DSMs train the tax return preparers employed at his individual LBS, and now Milestone Tax Services, stores. This training focuses on marketing and data entry to prepare tax returns and how to charge related fees to customers in accordance with LBS's and Milestone Tax Services' policies. According to Mesadieu, he created Tax Aid, LLC to provide training to his employees.

30. Gachette, Mesadieu, and LBS actually train DSMs and tax return preparers how to prepare tax returns fraudulently in order to falsely and improperly maximize customers' tax refunds. Mesadieu's DSMs and tax return preparers are specifically trained to increase the tax return preparation fees charged to customers as they increase the customer's bogus refund.

31. Mesadieu provides instruction sheets to his DSMs and tax return preparers that direct the preparers to input specific information into the tax preparation software to create the maximum bogus refund for customers. LBS preparers follow the instruction sheet to report customers' income within a specific range on their tax returns, even if the customers' actual income and circumstances (married, having dependents) that they provide to the preparer conflicts with what the preparer inputs into the software. By following these instruction sheets, LBS generates bogus refunds that customers are not entitled to. One such instruction sheet, frequently taped to the preparer's desk or on a wall next to the preparer's computer, indicated which boxes to check on the Earned Income Tax Credit checklist (IRS Form 8867) in order to make it appear as though the preparer complied with the "due diligence" requirements (discussed in more detail below) necessary to claim the credit (regardless of the information provided by customers and whether the customers actually qualify for the credit).

32. One LBS instruction sheet is brazenly captioned "Magic numbers." Preparers follow the instruction sheet, fabricating deductions on a Form 1040 Schedule A or creating bogus income or expenses on a Form 1040 Schedule C. The magic numbers sheet identifies the magic numbers as "16000-18000," and states that "anything lower then this you try to add income to get as close as possible" and "anything higher then this you try to take away income to get as close as possible."¹ The magic numbers sheet includes an example, for a customer who earned \$3,000 in wages, instructing the LBS tax preparer in such a situation to "input an income of 10000 on sch c" in order to falsely report the customer's income as \$13,000. The sheet also instructs the preparer to report unemployment income as Form W-2 wages. A similar LBS

¹ All quotations in this Complaint are copied exactly as they appear on the source document, including any spelling, punctuation, typographical, or grammatical errors.

instruction sheet includes the following: **"Magic range 16,000 to 18,000"**; "If made less than 10,000 **goal is to increase income so client to get more money** (add forms to get them more money) add Schc"; **"Made more than 24,000 you have to take income out so that you can get client more money.** (add deductions) 2106, SchA." (emphasis added.) The purpose of manipulating a customer's income in this manner is to falsely increase the amount of the Earned Income Tax Credit.

33. Mesadieu, when deposed by the City of Orlando on August 26, 2013, testified that the "magic numbers would be how you can get – it's numbers where you can get the most amount for your client... [W]orking with numbers every day, you will know how to get your clients the max, you know how to get the least." Mesadieu further testified about "pushing numbers" to avoid detection from the IRS:

A lot of when I spoke about pushing numbers, you don't want to be in the sweet spot every time. You don't want to – because that's a – basically, I mean, that's a red flag. You cannot be in a sweet spot every time, so you know – you're aware of your sweet spot, and you don't want to put a return where your client is getting the max every time because it would implement (sic) that you have a pattern. It would implement that something is wrong. Sweet spot is just for people to actually know and understand what not to do on certain circumstances, or what they can do on other circumstances.

34. Mesadieu also provides scripts directing his employees on how to interact with customers and potential customers. One script used by LBS informs customers that they will be

receiving a refund, although not all customers legally qualify for a refund:

SCRIPT:

There are three things that I am going to do for you today

1. I'm going to enter you information into the system
2. I will tell you how much your refund will be and
3. I will look for more forms and ways to get you more money legally, ~~ok~~?

35. Mesadieu and LBS fail to teach Mesadieu's DSMs and tax return preparers crucial elements related to basic tax return preparation. For example, they provide no genuine instruction on the legal requirements to claim the Earned Income Tax Credit and the related due diligence requirements, procedures for detecting fraudulent Forms W-2, and the methods to question customers who provide suspicious, false, or fraudulent information. To the contrary, Mesadieu and LBS affirmatively instruct Mesadieu's DSMs and preparers on how to prepare returns that improperly claims bogus refunds based on false claims, credits, and deductions and to maximize the fees extracted from those refunds.

36. Gachette and LBS franchisees (including Mesadieu) and employees give presentations to DSMs at the training in Orlando. DSMs are shown a power point presentation titled "Top 10 Things District Sales Managers Need to Know." The top ten list does not include any training on tax law. The power point focuses on marketing, hiring employees, interacting with customers (including selling tax return preparation to "hesitant" customers through scripts and "rebuttals"), how to maintain and organize files, and what to wear and not wear in the office.

37. The scripts to talk to customers are the primary focus of the training provided to LBS employees. Mesadieu requires his employees to memorize the scripts to solicit customers face-to-face and over the phone, and when preparing tax returns and attempting to coerce

customers to agree to the inclusion of additional (and improper/false) IRS forms with, and bogus claims on, their tax returns. The purpose of these scripts is to solicit customers and, once those customers have come in the door, to run up the tax return preparation fees by attaching forms to the return at an additional charge to the customer. LBS includes bogus claims, credits, and deductions on these forms to generate a higher refund for the customer, and uses this higher refund to justify its additional tax return preparation fees.

38. As part of the training session, LBS gives its DSMs a “test.” Mesadieu and other LBS franchisees are supposed to give the “test” to DSMs who cannot attend the training. The majority of the “test” and training is dedicated to marketing and soliciting business. The “test” also addresses LBS policies, such as how to maintain customer files and the fact that LBS’s tax return season “begins on December 26th.”

39. The training questions in the LBS “test” focus on data entry in the Drake software (the provider of the tax return preparation software that LBS licenses and uses to prepare LBS customers’ tax returns) and, in particular, how to input information on the forms that will generate the maximum (and bogus) refund for customers.

40. To the extent that the test addresses tax return preparation, the questions are very basic and, not surprisingly, the acceptable answers are not thorough and, occasionally, entirely incorrect.

41. The LBS “test” lists “Identification, Social Security Card, W-2, 1099” as the documents that a customer is purportedly required to provide to have their tax return prepared.

42. Mesadieu’s DSMs, in turn, are purportedly required to train the tax return preparers at their stores. However, the training slides in the top ten list power point presentation only pertain to marketing and Drake software. For example, the first slide regarding training,

captioned “How to Train,” discusses teaching the “Appointment setting ‘on-the-spot’ script,” “Telephone script,” and “Presentation script” to employees. There is no instruction on how to convey to employees even basic tax law concepts, how to explain IRS forms such as a 1040, or how to train tax return preparers to actually prepare tax returns.

43. Mesadieu and LBS also train Mesadieu’s DSMs and preparers how to use Drake software to prepare tax returns. However, Drake software does not train preparers on tax law, and the training is limited to data entry and practice tax returns so that preparers know where to enter information in the software. Drake software itself does not provide in-person training.

44. Incredulously, Gachette claims that the IRS, not he and LBS, is responsible for providing tax training to LBS franchisees (like Mesadieu) and tax return preparers, and that it is up to the IRS and Drake software to train LBS employees on how to prepare tax returns. However, the IRS and Drake software do not train LBS employees on tax law or proper tax return preparation, nor is it the IRS’s duty to train LBS employees how to prepare honest, accurate tax returns. That is LBS’s responsibility, which it is completely and utterly failing to meet.

45. The IRS requires that individuals applying for an Electronic Filer Identification Number (“EFIN”), such as LBS franchisees (including Mesadieu) and DSMs, complete an application and submit to a background check. The IRS does not provide training on tax law or tax return preparation in connection with its EFIN application. The requirements to obtain an EFIN are available at: <http://www.irs.gov/Tax-Professionals/e-File-Providers-&-Partners/Become-an-Authorized-e-file-Provider>.

46. An EFIN is a unique number that clearly identifies the authorized provider and the location where the return was prepared. Before a person may prepare and electronically

transmit tax returns for customers, he or she must obtain authorization from the IRS to become an authorized provider. Every authorized provider must apply for and receive an EFIN from the IRS. The EFIN requirement is not a means for the IRS to “train” applicants on tax law or how to prepare tax returns.

47. DSMs serve as the Electronic Return Originator (“ERO”) for their store. ERO is an Internal Revenue Service designation for the person or entity that electronically submits tax returns on behalf of customers. EROs are identified by their registered EFIN and are responsible for preparing and filing with each tax return an IRS Form 8879, “IRS e-file Signature Authorization.” Form 8879 is a signature authorization for an e-filed return filed by an ERO on behalf of a customer.

48. IRS Publication 1345 requires that an ERO “be diligent in recognizing fraud and abuse, reporting it to the IRS and preventing it when possible.” Mesadieu and LBS conduct no meaningful quality control or oversight over their tax return preparers, much less act diligently to prevent the fraud and abuse that is undertaken with respect to the preparation of customers’ tax returns. Indeed, fraudulent return preparation is encouraged and flourishes at many LBS stores.

49. The only supposed quality control that Mesadieu conducts is purportedly having “Area Managers,” also known as “Area Developers,” conduct occasional reviews of other LBS Tax Services offices. These reviews consist of making sure that employees are dressed properly, that customer files are stored properly, that the “presentation script” and various “cheat sheets” (such as the earned income tax credit “cheat sheet” that lists the answers that must be input into Drake software to complete to claim the Earned Income Tax Credit for a client) are taped to desks, and that the “forms order” cheat sheet (listing the order of forms that must be signed and placed in a customer’s file) is posted on the wall. The reviews also purportedly require the Area

Manager to review up to five customer files for quality control; however, the Area Manager does not review whether the customers' tax returns were properly prepared, but only whether certain forms are maintained in the files.

Defendant's Fraudulent Activity

50. Mesadieu and those acting in concert with him and at his direction have created and maintain a business environment and culture of greed at his LBS stores (now doing business as Milestone Tax Services) that expressly promotes and encourages the preparation of false and fraudulent federal income tax returns in order to maximize corporate and individual profits. By doing so, Mesadieu profits at the expense of his customers and the United States Treasury.

51. Many of LBS's customers have low incomes and are unsophisticated with respect to tax law and tax return preparation. Customers often have no knowledge that LBS prepares and files fraudulent tax returns on their behalf. For others, LBS preparers—with Mesadieu's consent and urging—mislead customers about the law, particularly with respect to various credits and deductions, and by promising them thousands of dollars of (illegal) refunds to coerce them to pay LBS to prepare their tax returns. Mesadieu benefits by receiving a significant portion of LBS customers' fraudulently obtained refunds, which he retains through fees.

52. Mesadieu instructs, directs, assists, advises, encourages, and causes his managers and preparers to engage in illegal practices. These practices include, but are not limited to:

- a. Making fraudulent claims for the Earned Income Tax Credit;
- b. Circumventing due diligence requirements in order to fraudulently maximize the Earned Income Tax Credit;
- c. Improperly claiming false filing status, such as Head of Household when the customer is actually married;
- d. Fabricating Schedule C businesses and related business income and expenses;

- e. Fabricating Schedule A deductions, including but not limited to deductions for unreimbursed employee business expenses and automobile expenses;
- f. Falsely claiming education credits to which their customers are not entitled;
- g. Improperly preparing returns based on paystubs rather than Forms W-2;
- h. Preparing amended tax returns for previous years to include bogus claims and credits on returns that were properly and accurately prepared elsewhere;
- i. Failing to provide customers with a copy of the completed tax return;
- j. Guaranteeing refunds; and
- k. Charging deceptive and unconscionable fees.

LBS Tax Services' "Guerilla Marketing"

53. Mesadieu and LBS solicit customers through what Gachette calls "Guerilla Marketing." "Guerilla Marketing" involves misleading advertising and aggressive in-your-face individual sales pitches, targeted at low income individuals. The purpose is to get as many potential customers in the door, prepare their tax returns, and prepare and attach to their tax returns additional and unnecessary forms containing bogus claims and credits, under the guise that LBS is doing so in order to legally increase the customer's tax refund.

54. Mesadieu and LBS charge the customer exorbitant fees for preparing the return, for each form prepared and attached to the return, and for filing the return. LBS makes fraudulent claims on these forms, in order to improperly increase customers' refunds. LBS then falsely tells the customers that these forms legally increased the customers' refunds, and charges higher fees due to the additional forms and the higher refund that LBS claimed. These fees are all deducted from the customer's tax refund, often without the customer being told the amount that LBS actually charged for preparing the tax return.

55. “Guerilla Marketing” begins long before the tax filing season begins. LBS advertising focuses on the Earned Income Tax Credit, with street signs, flyers, and business cards that simply state, for example, that a potential customer can receive “\$3169 per child” from the IRS and listing an LBS phone number to call.

56. Mesadieu and LBS instruct his employees to approach potential customers, ask whether they have children, hand out business cards, put up yard signs, and lure the potential customers to the LBS stores with promises of large refunds. This marketing occurs predominantly at large-scale retailers and grocery stores (marketers are specifically directed to solicit business at Wal-Mart), dollar stores, apartment complexes, public plazas, and large public events where LBS believes it can find potential customers who fit the low income demographic that it targets. LBS has also used radio ads, automated telephone calls, flyers on parked cars, billboards, and letters or mailers to previous or potential customers.

57. LBS’s “Guerilla Marketing” is so aggressive that the LBS franchise agreement anticipates and accounts for the related fines that are inevitably imposed against LBS’s stores by cities and municipalities for violations of local ordinances, particularly regulations pertaining to signs and advertising placed alongside streets. The agreement provides that the first \$500 in fines are paid by the franchisee, with any additional amounts paid by DSMs.

58. DSMs are instructed that if the “city comes to your office, you should apologize and beg; say you weren’t aware of the rules,” and then go put out “200 yard signs 3 miles away from your office in each direction” at midnight. If a DSM receives a “letter before February 14th saying you have to go to court,” the DSM is instructed to “call the courthouse, tell them you have an emergency and can come to court any day in March.” The purpose of this is to avoid going to court until LBS’s tax preparation and filing season is effectively over.

59. Mesadieu recruits and employs individuals, referred to as marketers, whose sole job is to solicit customers. Marketers are trained to “be discrete (pretend your shopping)” and “be careful for security that will kick you out.” The suggested times to market are “Before work, noon, 6-7 PM and midnight.” Marketers are advised to avoid security guards and store employees who will make them leave the premises.

60. Mesadieu and LBS provide scripts to marketers (in addition to managers and tax return preparers) on how to solicit customers. One script contains general introductory language, with three variations (depending on the date) used to schedule an appointment for the customer to have his or her tax return prepared. In all three variations, the script begins:

“Hi, I’m John a tax preparer. This year the IRS is giving \$3000 dollars per kid. What’s your name? How many kids do you have?”

[The script uses the answer of two children as the example.]

“Perfect, I can get you \$6000 to \$7000 dollars legally.”

From December 6 to December 26, before the tax year is even over, the script concludes:

“Do you have you last paycheck stub?”

If the customer says no, the script continues: “OK, What’s your name and number; I will have my secretary give you a call after Christmas to give you directions to the office one hour before.”

From December 26 to January 8, the script concludes:

“Do you have you last paycheck stub?”

If the customer says yes, the script continues: “I can do your taxes with that, what time and date can you come to my office?”

From January 8 to March 14, the script concludes:

“Do you have your W2?”

If the customer says yes, the script continues: “What time and date works best for you to come to my office?”

(emphasis added.)

61. Of course, the IRS does not “give” taxpayers \$3,000 per child. Whether a taxpayer is entitled to a credit, such as the Earned Income Tax Credit or Child Tax Credit, and the amount of the credit that the taxpayer can claim, depends on numerous factors, including whether the child lives with the taxpayer, whether the taxpayer financially supports the child, and the age of the child.

62. Mesadieu and LBS also provide similar scripts to tax return preparers and administrative staff at each store.

63. Instead of focusing on honest, accurate tax return preparation, LBS’s business model is result-oriented. LBS instructs preparers to “SELL ON FEAR!” and to “ALWAYS try to get the customer more than they received the last year filed taxes.” LBS’s power point presentation at its training session reiterates the script that preparers are repeatedly taught: “If you agree I will leave the forms, If you don’t I will take them off – BUILDS TRUST!” If a customer hesitates, preparers are told to keep reiterating the portion of the script about how each form will get the customer more money from the IRS, and if the customer appears ready to walk away, preparers are instructed to get a DSM to help convince the customer to agree to the LBS’s return preparation.

64. LBS employees speaking with potential customers over the phone are instructed to entice the customer by deceptively declaring how much money LBS can get refunded to the customer. For example, if a potential customer questions whether an LBS sign, business card, or radio ad was correct in saying the potential customer could get a tax refund of “\$3169 per child,”

the employee is instructed to respond that the potential customer “can get this much per child,” ask how many children the potential customer has, and then tell the customer that “I can get you anywhere from 6-8 thousand” or “I can get you anywhere from 8-9 thousand,” depending on whether the customer has 2 or 3 children. If the potential customer responds by questioning whether there is an income limit for the child credit, the employee is instructed to say that LBS “specialize[s] in maximizing your refund so come on in and we will show you exactly what you are entitled to.”

65. The LBS scripts setting forth what employees are required to say upon completing customers’ tax returns (or, more specifically, the Form 1040) are egregious and show a blatant disregard of the law. Once an LBS employee has completed the Form 1040, he or she is instructed to say to customers:

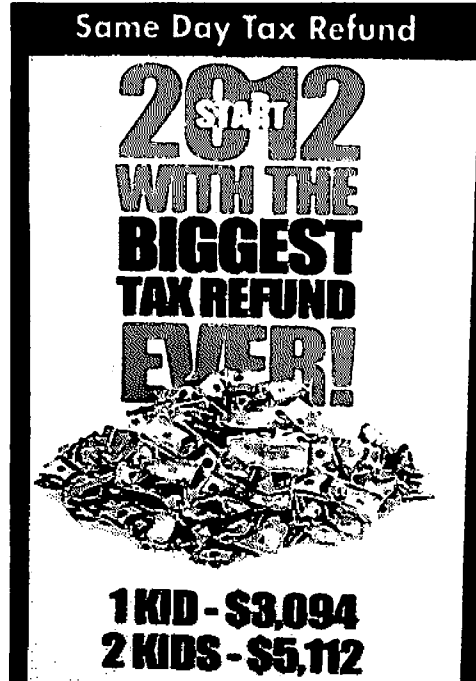
“At this time I am getting you back \$ [amount]. Ma’am or Sir, I can search for more forms to get you more money legally. Each form I use will cost you more but you get more money. For instance, I see I can get you an extra \$3000 by using 7 more forms and each form cost[s] about \$75.00. At the end I will let you know how much your refund will be, minus our fees. If you agree I will leave the forms on, if you don’t agree, I will take them off.”

LBS cannot legally “get” a customer \$3,000 by “using forms” (for example, the 7 forms in the above script). Individuals receive a refund if it is legally owed and based on the honest reporting of facts, not, as is the case with LBS’s tax return preparation, by adding to tax returns forms that do not apply and that customers do not understand. LBS entices customers with the possibility of a bigger (albeit fraudulent) refund based on LBS’s addition of forms to customers’ tax returns but, in reality, a form or schedule applies or does not apply and must be attached to a return only based on customer-specific facts or circumstances.

66. LBS’s tax return preparation is result-oriented, rather than being honest and

accurate. LBS's tax return preparation is based on maximizing LBS's own profits by drawing customers into a web of deception with promises of money, which comes in the form of bogus refunds issued by the U.S. Treasury as a direct result of the fraudulent claims made on LBS-prepared tax returns.

67. LBS primarily solicits business using deceptive marketing focusing on the Earned Income Tax Credit, particularly as it relates to claiming dependents. During the 2012 filing season, in addition to the yard signs which read "Tax Refund \$3094.00 per child," LBS also passed out the following business cards to potential customers:



68. LBS also advertises using social media. The Twitter account of a Mesadieu-owned LBS store in Miami, Florida tweeted on December 27, 2011: "Do you make 10-30k a year? If you have 1 kid(\$4-5k), 2 kids (\$6-7k) 3 kids\$8-9000 or more legally! set your appt today!" and "Dinero Extra Dinero!" On January 6, 2012, the message was: "Bring in your last pay check stub or w2 to get your taxes done today!"

69. LBS's advertisements regarding the Earned Income Tax Credit are misleading, at best, because the amount of the credit depends on several factors, such as income, marital status, and whether the child actually qualified as a dependent. LBS's advertisements simply recite the maximum amount of the credit that a qualifying taxpayer may be eligible to receive per child with no mention, let alone explanation, of the criteria that must be met to qualify for such an amount. Rather the advertisements clearly suggest that if you have children you will receive refunds of \$3,094 for one child and \$5,112 for two children. Moreover, preparing tax returns using a taxpayer's pay stub, as advertised, rather than a Form W-2, violates IRS regulations. And, of course, the IRS does not issue a "same day tax refund."

70. LBS effectively offers guarantees to its customers that they will receive refunds. LBS's advertising clearly suggests that customers with children will receive a refund. Some of the ads specifically refer to "EIC," and for those that do not, it is evident, based on the specific amount identified in the ads and the income demographic that LBS targets, that the approximately \$3,000 "per child" is due to the Earned Income Tax Credit. In addition, the "three things that I am going to do for you today" script that LBS requires employees to memorize and recite explicitly states, "I will tell you how much your refund will be." Guaranteeing the payment of any tax refund or the allowance of any tax credit violates 26 U.S.C. § 7407(b)(1)(C). LBS's tax return preparation practices ensure that customers do receive a refund, frequently based on bogus claims for the Earned Income Tax Credit.

Earned Income Tax Credit Fraud and Failure to Comply with Due Diligence Requirements

71. Mesadieu and many of his managers and tax return preparers prepare tax returns that include fraudulent claims for the Earned Income Tax Credit (EITC) often based on bogus dependents, fabricated business income and expenses, and/or false filing status.

72. The EITC is a refundable tax credit available to certain low-income working people. The amount of the credit is based on the taxpayer's income, filing status, and claimed number of dependents. The requirements for claiming the EITC are set forth in I.R.C. § 32 and the accompanying Treasury Regulations.

73. Because the EITC is a refundable credit, claiming an EITC can, in certain circumstances, reduce a taxpayer's federal tax liability below zero, entitling the taxpayer to a payment from the U.S. Treasury.

74. Due to the method used to calculate the EITC, an individual can claim a larger EITC by claiming multiple dependents and, for certain income ranges, individuals with higher earned income are entitled to a larger credit than those with lower earned income. The amount of the credit increases as income increases between \$1 and \$13,050, and decreases as income increases beyond \$17,100. Some tax preparers who manipulate reported income to maximize the EITC refer to this range of earned income corresponding to a maximum EITC as the "sweet spot" or "golden range." For tax year 2012, the maximum EITC was \$5,891 and was available to eligible individuals with three dependent children who earned income between \$13,050 and \$17,100.

75. Because of the way the EITC is calculated, reporting more income, up to a certain point, allows customers to receive a larger refundable credit. Similarly, claiming losses to offset higher income to decrease the total reported income and to fall within the "sweet spot" allows customers to claim a larger refundable credit.

76. To solicit business, LBS uses enticements of higher refunds based on the number of children that a potential customer has.

77. Mesadieu and many of his managers and preparers acting at his direction and with his knowledge and consent, falsify information to claim the maximum EITC for customers. Unscrupulous tax return preparers at LBS exploit the rules by claiming on their customers' returns bogus dependents and/or by reporting phony Schedule C businesses and income. Consistent with the "magic numbers" instruction sheet, to bring the customer's reported earned income within the "sweet spot" for the EITC, and depending on a customer's actual income, LBS preparers inflate or fabricate Schedule C income to fraudulently increase customers' reported earned income, or claim bogus Schedule C expenses to fraudulently decrease customers' reported earned income.

78. Reporting bogus income not only improperly enables LBS to falsely claim the EITC, but to fraudulently claim other credits as well, including the Child Tax Credit and American Opportunity Tax Credit. Schedule C fraud is a means by which unscrupulous tax return preparers, like many of those at LBS, manipulate customers' income in order to obtain bogus refunds based on fictitious claims for the EITC and other credits. Because of the amount of the EITC credit, these preparers frequently charge higher fees in connection with their preparation of bogus Schedules C. Of the fees that LBS charges per IRS form, it charges \$250 or more for a Schedule C, the most for any form.

79. Mesadieu and many of his managers and preparers acting at his direction and with his knowledge and consent also report bogus "Household Help" income on customers' tax returns to falsely report earned income to qualify customers for the EITC.

80. Household Help ("HSH") income is paid to individuals typically hired to perform household work, and these individuals are considered employees of the person for whom they perform the household work; the employer determines and controls the work performed by the

individual. The individual receiving the income may be paid in cash or non-cash benefits, on an hourly, weekly, or monthly basis, for jobs such as babysitting, house cleaning, yard work, health care, or driving. Individuals who receive HSH income are supposed to receive Forms W-2 reporting income received and taxes withheld, just like any other employment.

81. Mesadieu and many of his managers and preparers acting at his direction and with his knowledge and consent report the bogus HSH income on Line 7 of the Form 1040 tax return. IRS records do not show that Forms W-2 were issued by any employers for LBS's customers for whom LBS reported HSH income.

82. For example, customer D.V. had her 2012 federal income tax return prepared at the LBS store located at 736 Wilcrest Dr., Houston, Texas. In 2012, D.V. received Forms W-2 from her two employers, which reported wages totaling \$12,172. D.V. provided LBS with a copy of her Form W-2. D.V. did not receive any other income in 2012 and did not tell LBS that she had any other income. LBS falsely reported that D.V. received \$16,670 in wages, which included \$4,498 in bogus HSH wages. By reporting this bogus HSH income, LBS fraudulently claimed an EITC in the amount of \$5,236, and a bogus refund of \$8,459 on D.V.'s tax return.

83. Customer F.H. had her 2012 federal income tax return prepared at the LBS store located at 50 Aldine Bender Rd., Houston, Texas. F.H. received a Form 1099 from her sole employer in 2012, which she provided to LBS, and LBS reported that income on her tax return. F.H. did not receive any other income in 2012 and did not tell LBS that she had any other income. LBS falsely reported on line 7 of the Form 1040 that F.H. received \$3,458 in HSH wages. By reporting this bogus HSH income, LBS fraudulently claimed an EITC in the amount of \$5,236, and a bogus refund of \$5,519 on F.H.'s tax return.

84. Customer M.F. had her 2012 federal income tax return prepared at the LBS store located at 12136 Beechnut St., Houston, Texas. In 2012, M.F. received a Form W-2 from her employer, which reported wages of \$11,008. M.F. provided LBS with a copy of her Form W-2. M.F. did not receive any other income in 2012 and did not tell LBS that she had any other income. LBS falsely reported that M.F. received \$13,762 in wages, which included \$2,754 in bogus HSH wages. By reporting this bogus HSH income, LBS fraudulently claimed an EITC in the amount of \$5,236, and a bogus refund of \$7,272 on M.F.'s tax return.

85. Customer A.F. had her 2012 federal income tax return prepared at the LBS store located at 3605 Columbia St., Orlando, Florida. In 2012, A.F. was employed by Cold Air Distributors and received wages totaling \$7,282. A.F. provided LBS with a copy of her Form W-2. LBS falsely reported that A.F. received \$10,470 in wages, which included \$3,188 in bogus HSH wages. LBS also falsely claimed on the Schedule C attached to A.F.'s tax return that she had a daycare business, through which she earned \$3,278, with expenses of \$248, for a profit of \$3,030. A.F. had no such business and did not tell LBS that she had such a business. By reporting this bogus business income and HSH income, LBS fraudulently claimed an EITC in the amount of \$5,236, and a bogus refund of \$4,876 on A.F.'s tax return. LBS also did not provide A.F. with a copy of her tax return until about a month after it was prepared.

86. Customer S.B. had her 2012 federal income tax return prepared at the LBS store located at 3605 Columbia St., Orlando, Florida. In 2012, S.B. was self-employed cleaning houses and earned approximately \$7,200. However, on the Schedule C attached to S.B.'s tax return, LBS falsely claimed that S.B. earned \$11,232 through her house cleaning business. S.B. did not provide this amount to the preparer, and does not know why the preparer reported that amount. LBS also falsely reported HSH wages on S.B.'s tax return in the amount of \$5,236. By

reporting this falsely inflated Schedule C business income and bogus HSH income, LBS fraudulently claimed an EITC in the amount of \$5,891, and a bogus refund of \$6,412 on S.B.'s tax return.

87. Because of the potential for abuse in claiming the EITC, Congress has authorized the Secretary of the Treasury to impose “due diligence” requirements on federal tax return preparers claiming the EITC for their customers. *See* 26 U.S.C. § 6695(g). These “due diligence” requirements obligate the tax return preparer to make “reasonable inquiries” to ensure the customer is legitimately entitled to the EITC. The tax return preparer may not “ignore the implications of information furnished to, or known by, the tax return preparer, and must make reasonable inquiries if the information furnished to the tax return preparer appears to be incorrect, inconsistent, or incomplete.” *See* 26 C.F.R. § 1.6695-2 (2011). Tax return preparers must also document their compliance with these requirements and keep that documentation for three years. *Id.*

88. To document compliance with the due diligence requirements, tax return preparers must complete either the “Paid Preparer’s Earned Income Credit Checklist” (Form 8867) and record and maintain other documentation verifying customer eligibility for the EITC.

89. As mentioned above, Mesadieu and LBS provide his DSMs and preparers with specific instructions or cheat sheets that provide predetermined answers to input into the Drake software to claim the EITC on customers’ returns, and dictate what boxes to check on the IRS Form 8867, “Paid Preparer’s Earned Income Credit Checklist.” These instructions – and the predetermined answers – demonstrate that the actual information (if any) provided by customers is disregarded by preparers, who simply answer the questions in the manner that LBS instructs in

order to claim the EITC for customers who are not actually eligible for the credit (or for the inflated amount claimed by LBS):

EIC 2 NOTES:
<p>SITUATION 1:</p> <ul style="list-style-type: none"> -W2 taxpayer: click "yes" for "Does the income appear to be sufficient to support the taxpayer and qualifying children." - click "not applicable" "taxpayers with self-employment income." <p>SITUATION 2:</p> <ul style="list-style-type: none"> -Schedule C taxpayer: click "yes" for "Does the income appear to be sufficient to support the taxpayer and qualifying children." - Question 2.) Fill out how many years the business has been in existence - Question 3.) Fill in "self" - Question 4.) Click "no" - Question 4b.) Type "by income only" - Question 5.) Click "yes" - Question 5a.) Click "log books" - Question 6.) "No" if there are no 1099-misc forms to support income, "yes" for 1099 taxpayer - Question 6b.) "Yes" - Question 7.) "Yes" - Question 8.) "Yes" - Question 9.) "No"

90. A portion of a similar LBS instruction sheet is below (the Drake software questions are followed by the predetermined answers in bold):

EIC2 INCOME (NOT A SCHC)

DOES THE INCOME APPEAR TO BE SUFFICIENT TO SUPPORT THE TAXPAYER AND QUALIFYING CHILDREN? **CHECK YES**
 TAXPAYERS WITH SELF-EMPLOYMENT INCOME: **CHECK NOT APPLICABLE**

EIC2 INCOME (W/SCH C)

DOES THE INCOME APPEAR TO BE SUFFICIENT TO SUPPORT THE TAXPAYER AND QUALIFYING CHILDREN? **CHECK YES**
 HOW LONG HAVE YOU OWNED YOUR BUISNESS? **1 YEAR**
 CAN YOU PROVIDE ALL DOCUMENTATION TO SUBSTAIATE YOUR BUISNESS? **CHECK RECEIPTS OR RECEIPT BOOK**
 WHO MAINTAINS THE BUISNESS RECORDS? **SELF**
 DO YOU MAINTAIN SEPARATE BANKING ACCOUNTS FOR PERSONAL AND BUISNESS TRANSACTIONS? **CHECK NO**
 IF "NO" HOW DO YOU DIFFERNTIATE BETWEEN PERSONAL AND BUISNESS TRANSACTIONS AND MONETARY ASSETS? **CASH LOG**
 WERE SATISFACTORY RECORDS OF INCOME AND EXPENSE PROVIDED? **CHECK YES**
 IF "YES" IN WHAT FORM WERE THESE RECORDS PROVIDED? **CHECK PAID INVOICES**
 FORM 1099-MISC NO/YES/YES/YES/NO

91. Because the Forms 8867 EITC Checklists that Mesadieu's LBS stores generate are based on instruction sheets providing pre-determined answers showing that customers are eligible for the EITC, these forms, maintained in customers' files, appear to be complete, accurate, and based on statements and documentation provided by customers. In reality, because the answers are pre-determined, the only function of the LBS-completed Form 8867 EITC Checklist is to give the illusion that LBS complies with the due diligence requirements.

92. A closer review of LBS customer files reveals that Mesadieu and many of his managers and preparers utterly fail to comply with the due diligence requirements. Customers are given an intake form to complete, which is comprised of several sections. The first few sections request basic information such as name, address, social security number, filing status, and dependents. The final section pertains to any business that the customer operated. Often these intake forms are not fully completed by the customer, if they are marked at all. In many instances the LBS preparer entirely disregards the customer's responses on the intake form.

93. The LBS intake form apparently serves no other purpose than to give the illusion that LBS is questioning its customers and complying with the due diligence requirements. Frequently LBS preparers, rather than the customers, complete the form to support the claims that the preparer is fabricating on customers' tax returns.

94. The IRS has conducted investigations of Mesadieu's LBS stores to determine whether the preparers complied with the due diligence requirements. In 2013, the IRS assessed \$79,000 against Tax Advance, Inc. for 158 violations of 26 U.S.C. § 6695(g). The IRS selected 159 tax returns for tax year 2011 that identified two individuals at a Mesadieu-owned LBS store as the paid preparers. The IRS determined that, for one of the preparers, 84 of the 84 returns reviewed failed to comply with the due diligence requirements and, for the other preparer, 74 of

the 75 returns reviewed failed to comply with the due diligence requirements. Following its review of these returns and an interview of Mesadieu, the IRS concluded that the management of Tax Advance, Inc. “fails to comply with due diligent requirements through its quality review actions” and “lacks reasonable and appropriate procedures established and readily available for preparer to reference to comply with due diligence requirements.”

95. The conduct of Mesadieu and many of his managers and preparers shows an intentional disregard for the tax laws and in particular for the due diligence requirements, and demonstrates their unwillingness to comply with the requirements. Not only do Mesadieu and many of his managers and preparers fail to adhere to the due diligence requirements, but they are falsifying information in order to maximize the EITC for their customers. This conduct continues even after penalties were assessed against Tax Advance, Inc. in 2012.

Intentionally Claiming an Improper Filing Status and Bogus Dependents

96. Mesadieu and many of his managers and preparers also routinely prepare tax returns reporting false filing status. Specifically, head-of-household filing status is claimed on customers’ tax returns to increase the amount of the customers’ standard deduction, even though LBS is aware that the customer does not qualify for head-of-household status.

97. Mesadieu and many of his managers and preparers frequently file separate returns for married couples who are not living apart, improperly using the “head-of-household” or “single” filing status, both of which are unavailable to married couples living together. Often, this is an attempt to increase the claimed EITC; a couple with at least two children who, together, would otherwise receive a single EITC refund of \$5,000 by properly claiming “married, filing jointly,” may instead each receive a refund of \$3,000 or more, by both falsely claiming head-of-household or single status and each claiming at least one dependent.

98. Additionally, Mesadieu and many of his managers and preparers claim dependents who do not actually qualify as dependents on customers' tax returns, and then claim head-of-household filing status to increase the customers' refunds through both the false filing status and fraudulent EITC claim based on the bogus dependents.

99. For example, customer T.P. had her 2012 federal income tax return prepared at the LBS store located at 9602 Fulton St., Houston, Texas. The LBS preparer claimed two dependents on T.P.'s tax return, falsely listing them as a nephew and a daughter. In reality, these non-qualifying dependents were the daughters of T.P.'s cousin, and they lived with her for less than half of 2012. By falsely claiming these dependents, LBS claimed an EITC in the amount of \$5,218 and a bogus refund in the amount of \$7,319. LBS did not provide T.P. with a copy of her completed tax return, despite at least six attempts by T.P. to obtain a copy.

100. Customer R.H. had his 2012 federal income tax return prepared at the LBS store located at 77825 Jensen Rd., Houston, Texas. In 2012, R.H. lived with his daughter and her mother, K.M. R.H. explained to the LBS preparer that he considered K.M. to be his wife. The LBS preparer falsely told R.H. that he could claim K.M. as a dependent, and LBS classified her relationship to R.H. as "other" on R.H.'s tax return. LBS also claimed bogus deductions totaling \$22,487 (including \$3,902 for medical expenses, \$3,906 for charitable contributions, and \$17,744 in unreimbursed employee business expenses) on the Schedule A attached to R.H.'s tax return. As a result of these false claims, LBS claimed a bogus refund in the amount of \$3,810 on R.H.'s tax return.

101. Customer M.M. had her 2012 federal income tax return prepared at the LBS store located at 9602 Fulton St., Houston, Texas. M.M.'s parents lived with her in 2012; her father received disability income and her mother did not work. The LBS preparer told M.M. that she

could not claim her father as a dependent on her tax return because he received disability benefits. However, despite knowing that M.M.'s father did not qualify as a dependent, the preparer still claimed M.M.'s father as a dependent on M.M.'s tax return, without M.M.'s knowledge. LBS also falsely claimed unreimbursed employee business income on the Schedule A attached to M.M.'s tax return in the amount of \$13,009. This included bogus vehicle expenses on \$10,804, travel expenses of \$1,766, and meals and entertainment expenses of \$439. M.M. was employed doing medical billing and working as a janitor, and had no such expenses in 2012. As a result of the bogus dependent and unreimbursed employee business expenses, LBS fraudulently claimed a refund in the amount of \$1,307 on M.M.'s tax return.

102. Customer F.A. had her 2012 federal income tax return prepared at the LBS store located at 107 W. 1st St., Humble, Texas. F.A. provided the preparer with a copy of her last paystub from her employer and information pertaining to her children. F.A. also told the preparer that she was married. F.A. and her husband, who also went to LBS to have his tax return prepared, split the costs to support the household. Despite knowing the F.A. was married, LBS falsely claimed head of household filing status on F.A.'s tax return. LBS also did not require F.A. to provide a Form W-2, but prepared the return using only her most recent paystub. As a result of the improper filing status, LBS falsely claimed an EITC in the amount of \$4,084, and claimed a bogus refund in the amount of \$5,008 on F.A.'s tax return.

103. Customer S.H. had her 2012 federal income tax return prepared at the LBS store located at 107 W. 1st St., Humble, Texas. Both S.H. and her husband had their 2012 tax returns prepared at this LBS store; the LBS preparer asked whether S.H. and her husband wanted to file as married filing jointly or married filing separately, and they chose to file as married filing separately. However, on S.H.'s tax return, LBS falsely claimed head of household filing status.

LBS also falsely reported on the Schedule C attached to the return that S.H. received \$5,632 and incurred expenses of \$396 doing hair in 2012, when she had no such income or expenses. By falsely reporting head of household filing status and the phony Schedule C income, LBS fraudulently claimed an EITC in the amount of \$5,236 and a bogus refund of \$6,765 on S.H.'s tax return.

104. Customer M.P. had her 2012 federal income tax return prepared at the LBS store located at 9602 Fulton St., Houston, Texas. The LBS preparer asked M.P. how much of a tax refund she typically receives, and after M.P. stated an amount, the preparer replied, "Girl, that's nothing. We've got ways to do this." M.P. was married in 2012, and told the preparer that she was married. However, the preparer falsely claimed head of household filing status on M.P.'s tax return. On the Schedule A attached to M.P.'s tax return, LBS falsely claimed that M.P. had \$13,510 in unreimbursed employee business vehicle expenses, purportedly for 24,343 miles driven for work. M.P. commuted to work (a non-deductible expense) and did not use her vehicle for business purposes. By fraudulently claiming head of household filing status and the phony deductions on the Schedule A, LBS claimed a bogus refund in the amount of \$7,149 on M.P.'s tax return.

Fabricated Schedule C Business Income and Expenses

105. Mesadieu and many of his managers and preparers also prepare tax returns reporting non-existent businesses on bogus Forms Schedule C. On some of these returns, LBS reports substantial income, but little or no expenses. On other returns, LBS reports substantial expenses, but little or no income. The determining factor is whether LBS needs to inflate a customer's income (or create income when the customer has none) to bring the income within the EITC range or "sweet spot," or to lower the taxable income of a customer who has actual

income (such as wages reported on a W-2) in order to either bring the income within the EITC “sweet spot” or simply to create a phony business loss to offset the customer’s wages and fraudulently reduce the customer’s income tax liability.

106. Mesadieu and many of his managers and preparers also coerce customers to provide information that LBS can then use to fabricate claims on the customers’ tax return. One LBS script, captioned “Schedule C,” instructs preparers as follows: “if the person has a W-2 and made 5,000 or less ask if they have their own business give them examples of their own business (ex. hairstyling, nails, cutting grass).” Thus, based on LBS’s suggestions, if a customer responds that they cut a friend’s hair, or cut a family member’s lawn, or cooked for a church event, LBS then falsely reports that as a business on a Schedule C with bogus income and/or expenses in order to bring the income within the EITC “sweet spot” or to simply reduce the taxable income.

107. For example, customer D.J. had her 2012 federal income tax return prepared at the LBS store located at 12136 Beechnut St., Houston, Texas. D.J. was employed full-time at Kroger in 2012. D.J. went to LBS after seeing yard signs in her neighborhood. Upon arriving at the store, the LBS preparer told D.J., “I’m gonna take care of you, I can get you some more money.” D.J. provided the preparer with copies of her ID, child’s social security card, and password to her online Kroger account so the preparer could access her Form W-2 information. The LBS preparer falsely reported that D.J. had a business that had income of \$325 and expenses totaling \$10,366, including \$285 for advertising, \$4,842 for car and truck expenses, \$321 for repairs, \$2,576 for supplies, \$762 for meals and entertainment, and \$1,580 for other expenses (\$1,340 for “communications” and \$240 for uniforms). The preparer did not report what D.J.’s purported business was called or what it engaged in. By reporting a bogus \$10,041 loss from the non-existent business LBS fraudulently reduced D.J.’s taxable income in order to fraudulently

claim an EITC in the amount of \$2,396 and claim a bogus refund for the D.J. in the amount of \$4,905. The preparer did not review D.J.'s tax return with her after it was prepared. D.J. was not told that LBS was charging her almost \$700 to prepare her tax return until after it was electronically filed. When D.J. questioned the high fee, the LBS preparer responded, "I took care of you, baby. I thought you knew that."

108. Customer L.H. had her 2012 federal income tax return prepared at the LBS store located at 4919 Griggs Rd., Houston, Texas. L.H. worked for the Texas Department of Family Services in 2012. The LBS preparer told L.H. that L.H. would receive a larger refund if she allowed the preparer to include some additional forms with her tax return. However, the preparer did not explain what those forms were or how those forms would increase L.H.'s refund. LBS falsely claimed on the Schedule C attached to L.H.'s tax return that L.H. had a business called "H____'s House Cleaning." LBS reported that this non-existent business had \$865 in income, but \$6,881 in expenses (including \$4,328 in car and truck expenses and \$1,285 for supplies), for a total loss of \$6,016. By falsely reporting the business loss, LBS fraudulently claimed an increased EITC in the amount of \$4,125 and a bogus refund of \$9,224 on L.H.'s tax return.

109. Customer J.E.C. had his 2012 federal income tax return prepared at the LBS store located at 12136 Beechnut St., Houston, Texas. J.E.C. gave the LBS preparer a copy of his Form W-2. LBS falsely reported on the Schedule C attached to J.E.C.'s tax return that he had a business called "J____'s Construction," when J.E.C. had no such business and did not tell LBS that he had such a business. LBS falsely reported that J.E.C.'s non-existent business had sales totaling \$415 in 2012 and incurred \$8,013 in expenses, including \$4,343 for bogus car and truck expenses, \$1,364 for supplies, and \$976 for "communications." LBS reported this purported

\$7,598 loss on J.E.C.'s Form 1040, fraudulently reducing his taxable income to \$2,035. As a result, J.E.C.'s 2012 tax return falsely claimed a refund of \$4,261.

110. Customer B.P. had her 2012 federal income tax return prepared at the LBS store located at 5312 Telephone Rd., Houston, Texas. B.P. brought a Form W-2 to LBS, but did not have the Forms W-2 from her other two employers. The LBS preparer told B.P. that she did not need the other Forms W-2. The preparer also told B.P. that the preparer could add more income to B.P.'s tax return - because B.P. did not work enough - in order to get B.P. a larger refund. The LBS preparer falsely claimed on the Schedule C attached to B.P.'s tax return that B.P. had a business as a "beauty specialist" that had income of \$10,479 and expenses of \$84, for a profit of \$10,395. The preparer did not ask B.P. any questions about income or expenses for a business, and B.P. was unaware the LBS reported that she had a business. By reporting this bogus business income, LBS fraudulently claimed an EITC in the amount of \$3,169 and claimed a bogus refund of \$2,907 on B.P.'s tax return.

111. Customer R.A. had her 2012 federal income tax return prepared at the LBS store located at 3605 Columbia St., Orlando, Florida. In 2012, J.T. was employed by the State of Florida, and received wages totaling \$24,924. The LBS preparer told R.A. that he could get her a bigger refund. The preparer falsely reported on the Schedule C attached to R.A.'s tax return that she had a "foods processing" business called "a ____ foods services." R.A. had no such business, did not tell LBS that she had such a business, and was unaware that LBS had reported this business on her tax return. LBS falsely reported that this non-existent business had no income in 2012, but incurred expenses totaling \$10,210, including \$8,712 in car and truck expenses and \$1,498 in supplies. LBS reported this phony business loss on R.A.'s tax return,

thereby fraudulently reducing her taxable income. By doing so, LBS fraudulently claimed an EITC in the amount of \$5,236, and a bogus refund of \$6,236 on R.A.'s tax return.

112. Customer L.V. had her 2012 federal income tax return prepared at the LBS store located at 3605 Columbia St., Orlando, Florida. In 2012, L.V. was married, and told the LBS preparer that she was married. The LBS preparer told L.V. that L.V.'s husband did not make enough money to file a tax return, and falsely told L.V. that she could (and should) file with her filing status as head of household. LBS then listed L.V.'s filing status as head of household. L.V. was self-employed doing home health care in 2012, and told the LBS preparer that she earned \$700 per month. However, on the Schedule C attached to her return, LBS falsely reported that L.V. earned \$15,667, or nearly twice what L.V. actually made and what she told the preparer. By claiming this improper filing status and falsely inflated amount of income, LBS fraudulently increased the amount of EITC that was claimed on L.V.'s tax return, and claimed a bogus refund of \$5,032.

113. Mesadieu and LBS are not concerned with the harm caused by reporting bogus income on customers' tax returns. One result of doing so is that customers may have benefits, such as state welfare benefits or social security income, reduced or eliminated. This is because these types of benefits may be based on an individuals' income level or inability to work, and an individual may be required to prove their income level or inability to work. LBS reports bogus income from non-existent businesses on customers' tax returns in order to fabricate a claim for a refund. When state or federal agencies see an LBS customer's tax return, which includes the bogus income that LBS reported, the state or federal agencies believe that the individual is ineligible for the benefits they are applying for or receiving.

114. For example, customer M.G. had her 2012 tax return prepared at the LBS store located at 50 Aldine Bender Rd., Houston, Texas. M.G. earned \$2,948 in wages from her job in 2012, and also received financial assistance from the state. M.G. provide the preparer with a copy of her Form W-2 showing the wages that she received. However, LBS falsely claimed household help income in the amount of \$1,245, and falsely reported that M.G. had income of \$6,111 from a non-existent house cleaning business on the Schedule C attached to her tax return. As a result of this bogus income, LBS fraudulently claimed the EITC in the amount of \$3,169, and a bogus refund in the amount of \$4,445 on M.G.'s tax return. M.G. learned of the bogus income reported on her tax return when she applied for disability benefits at the Social Security Administration. M.G. was told that, based on the amount of income reported on her LBS-prepared tax return, she earned too much in 2012 to qualify for disability benefits. Upon further investigation, M.G. realized that LBS had falsely reported the HSH and Schedule C business income on her tax return. M.G. then had to file an amended return and pay back to the IRS the erroneous refund that she received due to the bogus refund that LBS requested on her tax return.

Bogus Schedule A Deductions

115. Reporting bogus Form Schedule A deductions is another tactic commonly used by Mesadieu and many of his managers and preparers to fraudulently reduce customers' taxable income. As with bogus Schedule C business losses, the bogus Schedule A deductions are typically reported on the tax returns of customers who have over \$24,000 in wage income reported on Forms W-2.

116. Mesadieu and many of his managers and preparers often prepare tax returns for customers which include false claims for purported unreimbursed employee business expenses. Section 162 of the Internal Revenue Code governs trade or business expenses. These returns

often claim deductions for fabricated, fraudulently inflated, and/or non-qualifying business expenses. IRS Publication 529 (which is readily available and easy to understand) provides examples of qualifying business expenses, including “Union dues and expenses” and “Work clothes and uniforms if required and not suitable for everyday use.” *See* IRS Publication 529 (2013) (available online at: <http://www.irs.gov/publications/p529/ar02.html>). Publication 529 also provides examples of expenses that do not qualify as business expenses, including “Commuting expenses,” “Lunches with co-workers,” “Meals while working late,” and “Personal, living, or family expenses.”

117. One LBS script instructs the preparer to ask specific questions to customers:

(SCHEDULE A QUESTIONS)

- HOW MUCH DID YOU SPEND ON GAS?
- DID YOU ATTEND CHURCH? (10% TITHES) OR -DID YOU GIVE TO ANY CHARITIES?
- DID YOU PURCHASE ANY WORK UNIFORM(S)?
- DID YOU PURCHASE ANY WORK SHOES?
- DID YOU PURCHASE ANY TOOLS?
- ANY MEDICAL OR DENTAL EXPENSES?
- WHAT WAS YOUR CELL PHONE BILL?

If customers respond, for example, that they drove to and from work, Mesadieu and many of his managers and preparers then claim a non-qualifying expense for commuting on the customers’ returns. If customers respond that they attend church, Mesadieu and many of his managers and preparers claim that the customers made charitable contributions, even if they did not. Mesadieu and many of his managers and preparers thus push customers to provide information that Mesadieu and many of his managers and preparers can manipulate to make bogus claims on customers’ tax returns.

118. The LBS training “test” specifically instructs preparers that “Schedule A should only be used when the taxpayer has an outstanding income of 24,000 [dollars] or higher.”

Mesadieu and many of his managers and preparers frequently report on Forms Schedule A that customers had qualifying expenses such as medical expenses, state and personal property taxes, charitable contributions, and uniforms, when the customer had no such expenses.

119. For example, customer E.F. had his 2012 federal income tax return prepared at the LBS store located at 1923 Campbell Rd., Houston, Texas. In 2012, E.F. received wages from Exterran Energy Solutions totaling \$62,501. E.F. gave the LBS preparer a copy of his Form W-2, social security cards for his dependents, and his home mortgage interest statement. LBS falsely reported on the Schedule A attached to E.F.’s tax return that he had itemized deductions totaling \$47,885. LBS falsely claimed that E.F. paid \$27,352 in home mortgage interest, an amount approximately double what was reported on the statement that he provided to the preparer (\$13,675). Other bogus deductions fabricated by LBS included charitable contributions (\$4,834) and unreimbursed employee business vehicle expenses (\$15,764). The preparer did not discuss these deductions with E.F. As a result of these fabricated deductions, LBS claimed a bogus refund in the amount of \$4,393 on E.F.’s tax return. In addition, LBS did not tell E.F. that it was charging him \$800 to prepare his tax return.

120. Customers H.G. and E.C. had their 2012 federal income tax return prepared at the LBS store located at 12738 Woodforest Blvd., Houston, Texas. H.G. saw LBS yard signs near her job that advertised the amount of a refund that a customer would receive per child. In 2012, H.G., who is a store manager at Domino’s Pizza, had wages totaling \$43,541, and also had lottery winnings of \$250,000. H.G. provided the LBS preparer with copies of her ID, Form W-2, a statement from the Texas Lottery Commission, and her child’s social security card. H.G. did

not give the preparer any information regarding medical expenses, charitable contributions, or business expenses. However, LBS falsely claimed on the Schedule A attached to H.G.'s and E.C.'s tax return that they had \$37,247 in deductions. This included \$10,279 in bogus unreimbursed employee business expenses, which included phony expenses for a business vehicle (\$7,682), parking and tolls (\$465), and meals and entertainment (\$2,132). LBS also falsely claimed that H.G. and E.C. had \$3,101 in medical expenses and \$30,141 in charitable contributions. By claiming phony itemized deductions, LBS claimed a bogus refund in the amount of \$8,247 on H.G.'s and E.C.'s tax return.

121. Customers R.G. and P.G. had their 2012 federal income tax return prepared at the LBS store located at 5312 Telephone Rd., Houston, Texas. On the Schedule A attached to the Gs.' tax return, LBS falsely claimed that the Gs. had deductions totaling \$22,279, including \$5,547 in charitable contributions and \$16,519 in unreimbursed employee business expenses (\$10,937 for vehicle expenses, \$2,019 for meals and entertainment, \$1,443 for "cell phone," \$1,256 for tools, and \$864 for "uniforms workboots."). In reality, the Gs. had no such expenses, and R.G. did not tell the preparer that he or his wife had any such expenses. By claiming phony itemized deductions, LBS claimed a bogus refund in the amount of \$1,820 on the Gs.' tax return.

122. Customer S.A. had his 2012 federal income tax return prepared at the LBS store located at 11030 Bissonnet St., Houston, Texas. On the Schedule A attached to S.A.'s tax return, LBS falsely claimed that S.A. had deductions totaling \$25,009. This included bogus charitable contributions totaling \$8,845. S.A. did not make any charitable contributions in 2012 and did not tell the preparer he made any such contributions. The preparer also falsely claimed that for his job, S.A. incurred meals and entertainment expenses of \$2,126, travel expenses of \$1,325, uniforms expenses of \$974, cell phone expenses of \$1,325, dry cleaning expenses of \$629, and a

license expense of \$286. S.A. had no such expenses and did not tell the preparer that he had these expenses. By claiming these phony itemized deductions, LBS claimed a bogus refund in the amount of \$2,859 on S.A.'s tax return. LBS gave S.A. a copy of his tax return by email after it was prepared, but that copy did not include the Schedule A that was filed with his return.

123. Customer T.B. also had his 2012 federal income tax return prepared at the LBS store located at 11030 Bissonnet St., Houston, Texas. The preparer asked T.B. if he made any charitable contributions in 2012, to which T.B. replied "no." Nevertheless, LBS falsely reported on the Schedule A that T.B. made \$4,602 in charitable contributions. LBS also reported phony unreimbursed employee business expenses and total false itemized deductions of \$19,042, resulting in a claim for a bogus refund on T.B.'s tax return in the amount of \$1,331.

124. Customers J.B. and V.A. had their 2012 federal income tax return prepared at the LBS store located at 1923 Campbell Rd., Houston, Texas. LBS claimed bogus itemized deductions in the amount of \$24,973 on the Schedule A attached to J.B.'s and V.A.'s tax return. LBS falsely claimed unreimbursed employee business expenses in the amount of \$19,715, when they had no such expenses. LBS claimed a bogus refund in the amount of \$4,710 as a result of these phony itemized deductions.

125. Mesadieu and many of his managers and preparers commonly improperly deduct vehicle expenses on the Forms Schedule A attached to customers' returns. In fact, LBS's training "test" lists "Auto Expense" as one of the "4 forms that can get the client the maximum refund." Forms Schedule A and C are also on among those listed forms.

126. Mesadieu and many of his managers and preparers frequently report that a customer used a personal vehicle for a business purpose and that the customer drove tens of thousands of miles for work. In reality, the majority of this purported mileage is for commuting

from home to work, which is not a qualifying vehicle expense. Mesadieu and many of his managers and preparers also inflate the actual mileage that the customer drives each day to and from work. Therefore, not only are Mesadieu and many of his managers and preparers claiming an improper, non-qualifying expense, but they are falsely inflating the mileage number in order to further increase the bogus deduction on customers' tax returns.

127. For example, customers R.F. and A.O. had their 2012 federal income tax return prepared at the LBS store located at 12738 Woodforest Blvd., Houston, Texas. R.F. gave the LBS preparer a copy of his Form W-2, his last three paystubs, the IDs for himself and his girlfriend (A.O.), and social security information for his son. Even though R.F. was single in 2012, and he told the preparer he was single but living with his girlfriend (who did not work in 2012), LBS falsely claimed on R.F.'s tax return that he was married. LBS also falsely claimed on the Schedule A that R.F. made charitable contributions of \$2,986, and had unreimbursed employee business expenses totaling \$19,999. The fabricated business expenses included \$15,837 for vehicle expenses (for a purported 28,535 business miles driven), \$2,497 for meals and entertainment, \$684 for boots, \$647 for uniforms, \$1,268 for a cell phone, and \$314 for supplies. R.F., who is a manager at Lowe's, had no such business expenses and did not make any contributions, and did not tell the preparer that he had any expenses or that he made any contributions. R.F. was unaware that LBS made these phony claims on his tax return, because they never provided him with a copy, despite R.F. asking for a copy on several occasions after it was prepared. By falsely reporting the married filing status and the fabricated deductions on the Schedule A, LBS claimed a bogus refund in the amount of \$3,933 on R.F.'s and A.O.'s tax return.

128. Customers A.N. and M.P. had their 2012 federal income tax return prepared at the LBS store located at 12738 Woodforest Blvd., Houston, Texas. A.N. and M.P. went to LBS after seeing yard signs advertising a \$3,000 refund per child. M.P. provided the LBS preparer with copies of Forms W-2 for herself and her husband and her kids' social security cards. The LBS preparer told M.P. that she could get an extra \$500 refund if the preparer submitted an extra form with the tax return, and that this form had to be approved by the IRS. A few weeks later, the LBS preparer called M.P., told her that the IRS had not approved her "refund application," and that LBS would have to prepare a new return for A.N. and M.P. It is not known what this form the preparer attempted to file with the IRS. LBS then prepared a new return for M.P., on which it falsely claimed deductions on the Schedule A totaling \$19,374. LBS falsely claimed that A.N., who (along with M.P.) worked at a Johnny Carinos restaurant in 2012, had unreimbursed employee business expenses totaling \$14,581, including \$12,270 for vehicle expenses (for a purported 22,108 business miles driven) and \$2,311 for a cell phone. A.N. had no such expenses and did not tell the preparer that he had such expenses. By falsely claiming these phony Schedule A deductions, LBS claimed a bogus refund of \$3,138 on A.N.'s and M.P.'s tax return.

129. Customers A.M. and C.M. had their 2012 federal income tax return prepared at the LBS store located at 7400 Harwin Dr., Houston, Texas. A.M. and C.M. went to LBS after seeing yard signs advertising the refund that customers would receive per child. The only documents that A.M. provided to the preparer were copies of his and his wife's Forms W-2 and IDs, and his children's social security cards. In 2012, A.M. and C.M. earned wages totaling \$60,786. The preparer asked A.M. if he bought tools, boots, or work clothes, and he replied that he had; however, the preparer did not explain to A.M. what work-related expenses could be deducted, or ask A.M. for any documentation regarding those expenses. LBS falsely reported on

the Schedule A attached to A.M.'s and C.M.'s tax return that the couple had \$45,927 in deductions. This included \$37,714 in bogus unreimbursed employee business expenses; the Forms 2106 falsely claimed that A.M. had \$15,700 in unreimbursed employee business expenses (including \$14,744 in vehicle expenses), and C.M. had \$15,513 in unreimbursed employee business expenses (including \$14,790 in vehicle expenses). By claiming phony itemized deductions, LBS fraudulently reduced the Ms.' taxable income to zero, and claimed a bogus refund in the amount of \$4,761 on the Ms.' tax return.

Bogus Education Credits

130. Another practice at Mesadieu's LBS stores is fabricating education expenses and falsely claiming refundable education credits, including the American Opportunity Education Credit, on customers' federal income tax returns. Unlike many tax credits, a refundable tax credit entitles qualifying taxpayers to receive refunds even if they have no tax liability. Mesadieu and many of his managers and preparers routinely and repeatedly claim false education credits on the tax returns of customers who did not attend college and had no qualifying education expenses, in order to fraudulently reduce their customers' taxable income and generate a larger bogus refund (and increasing the fees that they charge to customers).

131. For example, on the 2012 tax return of customer M.G., described above in paragraph 114, LBS falsely claimed an American Opportunity education credit in the amount of \$1,000, despite knowing that M.G. did not attend school and did not have any education-related expenses in 2012.

132. Customer T.S. had her 2012 federal income tax return prepared at the LBS store located at 736 Wilcrest Dr., Houston, Texas. In 2012, T.S. did some work cleaning houses and attended the University of Phoenix. T.S.'s grandfather paid her tuition costs, and T.S. so

informed the LBS preparer. However, the LBS preparer falsely claimed an American Opportunity education credit in the amount of \$354 on T.S.'s return, despite knowing that she did not pay any education expenses in 2012. LBS also attached a Schedule C to T.S.'s tax return that falsely reported that T.S. received \$11,048 in income and had \$981 for a cleaning business. In reality, T.S. earned \$75 per week (approximately \$3,900 for the year) doing house cleaning, and told that to the LBS preparer. According to T.S., the LBS preparer fabricated the amounts reported on the Schedule C and had T.S. sign a document stating that she had received that income and incurred those expenses. At that point, the preparer, who was a notary, notarized the document, knowing that he (the preparer) fabricated the amounts. As a result of the phony income and the education credit, LBS falsely claimed an EITC in the amount of \$3,169 and a bogus refund of \$3,239 on T.S.'s tax return.

Improperly Preparing and Filing Returns based on Pay Stubs

133. Mesadieu and many of his managers and preparers also prepare and file federal income tax returns using customers' end-of-year pay stubs and then file their customers' tax returns without valid Forms W-2. In other instances, an IRS Form 4852, "Substitute for Form W-2," is attached to customers' returns, which falsely claims that the employer did not timely issue a Form W-2. In reality, the returns are prepared before the end of the tax year and/or before an employer even has the ability to issue a Form W-2 for that year.

134. Federal tax returns for wage earners must be prepared using Forms W-2. Using pay stubs to prepare and file tax returns is improper and violates IRS rules. Moreover, end-of-year pay stubs frequently omit income and distributions that are shown on employer-issued Forms W-2. Thus, preparing and filing federal income tax returns based on information from

end-of-year pay stubs inevitably results in errors and omissions on federal tax returns, which necessarily interferes with the administration and enforcement of the internal revenue laws. Mesadieu and many of his managers and preparers know that using paystubs to prepare and file returns violates IRS rules and regulations because in order to participate in the IRS's electronic filing program, all electronic filers, including those at Mesadieu's LBS stores, must acknowledge that they will comply with the IRS's requirements, which expressly prohibit filing returns prepared with pay stubs and without genuine Forms W-2. IRS Publication 1345 also mandates that electronic filers "must not electronically file individual income tax returns prior to receiving Forms W-2, W-2G or 1099-R."

135. LBS begins soliciting customers in December of each year by falsely telling customers that their returns can be prepared using their most recent paystub. LBS's stores open on December 26, before the end of the tax year, before customers know how much income they earned and taxes they owe for the year, and before employers are able to issue Forms W-2 to their employees. Forms W-2 are not available to employees before the end of the calendar tax year, and tax returns cannot be filed before January of the processing year.

136. The "presentation script" that employees are trained to recite to prospective customers specifically instructs the employee to tell the potential customer to bring in their paystub to have their tax return prepared.

137. LBS customers fill out a taxpayer personal information sheet, which identifies the customer's name, address, social security number, and dependent information. The customers often complete these forms in December or early January, and because their employers have not yet issued Forms W-2, LBS uses the customers' most recent pay stub to prepare tax returns and create fake Forms W-2. LBS instructs its employees to retain the original pay stub in the

customer files and to not file the pay stub with the IRS. LBS stores even maintain a separate storage bin for files of customers whose returns were prepared using a pay stub rather than a Form W-2.

138. Mesadieu and many of his managers and preparers know that preparing tax returns based on paystubs violates IRS rules and regulations. As previously mentioned, DSMs serve as EROs for the store they manage and have EFINs to electronically file returns. IRS Publication 1345 also mandates that “EROs must not electronically file individual income tax returns prior to receiving Forms W-2, W-2G or 1099-R.”

139. The power point presentation that LBS shows at its training sessions instructs employees to tell potential customers: “Yes, we do last paycheck stubs. Come to our office and we will take care of you!” The presentation also warns employees not to file the actual paystub with the IRS because “your EFIN will be SUSPENDED and you will be DROPPED!!” Thus, LBS encourages the pay stub filing practice, but simply instructs its employees not to get caught.

140. Instead of filing the pay stub, the LBS training “test” specifically instructs preparers that a “Form 4852 is used for all last pay stub clients.” Form 4852 is a Substitute for Form W-2 that is properly used when an employer does not issue a Form W-2 to the employee. It is not permissible to use a Form 4852 if a Form W-2 is or will be issued; the Form 4852 itself lists the possible penalties for improper use.

141. By preparing tax returns before the end of the tax year, Mesadieu and LBS unfairly solicit business before competitors.

142. Customer T.W. had her 2012 federal income tax return prepared at the LBS store located at 4010 Highway 6 South., Houston, Texas. T.W. called LBS after seeing a yard sign advertising the amount of refund she could receive by virtue of having a child. T.W. did not

have Forms W-2 from all of her jobs, but the LBS employee falsely told her that she could have her return prepared without them. T.W. provided the LBS preparer with one Form W-2, the last paystub from her other job, and the social security numbers for her children. Because LBS used her last paystub to prepare the return, T.W.'s tax return over-reported her wages by \$575, and omitted \$122 in tax withholdings. T.W. told the LBS preparer that she was married but wanted to file separately from her husband. The LBS preparer then falsely claimed head of household filing status on T.W.'s tax return, rather than married filing separately. The LBS preparer asked T.W. if she received any other income, and when T.W. replied that she did not, the LBS preparer encouraged T.W. to report on a Schedule C that she had a hair styling business. T.W. refused to do that. As a result of the false filing status reported, LBS claimed a bogus refund in the amount of \$4,169 on T.W.'s tax return. LBS told T.W. that it would cost \$75 to have her return prepared, but subtracted around \$800 in fees from her refund.

Preparation of Improper Amended Tax Returns

143. LBS also solicited business by telling potential customers that they should allow LBS to amend their prior year's tax returns, which were not prepared by LBS. LBS created telephone scripts and automated phone call messages to solicit such customers.

144. One such telephone script misrepresented not only tax laws, but the IRS's relationship with LBS:

Hi my name is Lynda I'm calling from the tax office here in Orlando we are certified with the IRS how are you this morning/afternoon/evening? Good. The reason for my important call is let you know we are providing a free service to the community. In the years of 2008, 2009, 2010 W-2 workers have not been receiving their maximum refund and IRS has allowed a program in which taxpayers can review their paperwork to ensure that they are not missing any credits. What we do as a company is assist taxpayers to verify that the person who prepared your taxes did not miss this information. Are you a W-2 worker? Perfect! Before I go any further can you please verify for me your address is still _____. Ok these credits that I mentioned can get you anywhere from 1,000-\$2,000 or more. Can you see where this extra cash might help you? I do want to let you know we do have a physical location here in central Florida and I have available appointments for _____, _____, _____.

145. LBS instructed employees that offices "should have 1-2 bins designated to just holding finished amendments."

146. LBS amended customers' previous year's tax returns in order to claim bogus refunds for the customers based on improper and unnecessary amendments (and thereby entice the customer to allow LBS to prepare tax returns for the customers for the current and/or future tax years) and to generate additional fees for LBS.

Unauthorized Filing of Customers' Tax Returns and Identity Theft

147. LBS also prepares and files tax returns without the individual's knowledge or consent.

148. LBS caters to low-income taxpayers, many of whom are in need of money quickly. Mesadieu instructs his managers and preparers to complete an "estimated" income tax return, purportedly to determine whether the customer qualifies for a refund anticipation loan or to give the customer an accurate estimate of their expected refund. Customers sign the return and other tax forms authorizing LBS to file the return and are falsely told by LBS that the return

will not be filed with the IRS until the customer returns with a Form W-2 issued by their employer.

149. However, in order to “lock-in” prospective customers, LBS routinely and illegally files those estimated income tax returns, based on pay stubs, without customer authorization. This practice effectively prevents the customer from later using one of LBS’s competitors to prepare and file a return, because a taxpayer can file only one electronic return with the IRS per year. It also gives LBS a competitive advantage over tax return preparers who obey the law and wait to prepare and file returns using Forms W-2. Most importantly, the practice generates an inaccurate return and an unauthorized refund, impedes tax administration, and guarantees that Gachette and LBS franchisees (including Mesadieu), managers, and preparers will receive their unconscionably high fees, which are paid directly from the customer’s refund only after the return has been electronically filed.

150. LBS also prepares and files bogus tax returns using taxpayer information apparently stolen or otherwise misappropriated from the taxpayer.

151. For example, Y.C.’s 2012 federal income tax return was prepared at the LBS store located at 77825 Jensen Rd., Houston, Texas. Y.C. and her cousin went to LBS to get an estimate of their tax refunds after seeing LBS yard signs. Y.C. spoke to an LBS preparer, who entered Y.C.’s information on a computer, but Y.C. left the store without authorizing anyone to file her estimated tax return. When Y.C. went to another business to have her tax return prepared, she learned that her return was already filed by LBS. Y.C. went back to the LBS store to find out what happened, but it was closed. After calling other LBS locations, Y.C. was told that she could pick up her refund check at 50 Aldine Bender Rd., Houston, Texas. When she complained about the unauthorized filing of her tax return, the LBS employee replied that “its

not my problem.” LBS did not provide her with a copy of the tax return. In 2012, Y.C. received child support and financial assistance from the state. LBS falsely claimed on the return that it filed that Y.C. had a “brading” business that had sales of \$15,876 and expenses of \$57, for a profit of \$15,819. Y.C. did not have this business income or expense and did not know where LBS came up with the numbers reported on her return. As a result of reporting the phony business income, LBS falsely claimed an EITC in the amount of \$5,236 and a bogus refund of \$5,648 on Y.C.’s unauthorized tax return.

Deceptive, Unconscionable, and Undisclosed Fees

152. Mesadieu’s LBS stores charge unconscionably high fees to prepare tax returns, mostly through added, deceptive fees. These fees are typically charged without customers’ knowledge.

153. LBS intentionally deceives its customers regarding the fees charged for the preparation of tax returns.

154. The LBS training “test” specifically instructs employees to tell potential customers who call LBS asking what the charge is for preparing a tax return to respond with: “\$75. Would you like to set an appointment?” The “Telephone Script” instructing employees how to speak to a potential customer on the phone directs employees to respond to the question “How much do you charge?” with: “We charge \$75. You do not have to pay us up front; it will be deducted automatically from your refund.”

155. However, the actual cost may be several hundred dollars or more depending on the forms and schedules attached to the tax return. LBS charges additional fees for each form and schedule (such as a Schedule C or a Form 8863 for an education credit) attached to the Form 1040 tax return. LBS charges separate fees for forms and schedules such as the electronic filing

authorization (Form 8879) which is required for e-filing, the EITC qualifying child form (Schedule EIC), and the related EITC due diligence checklist (Form 8867), which must be completed in connection with a claim for the EITC. These fees result in a total tax return preparation fee much higher than the \$75 advertised.

156. LBS also has so-called “999 charge weeks.” During these periods, LBS and its franchisees (including Mesadieu), encourage LBS stores to charge \$999 – or “as much as possible,” according to Mesadieu – for the preparation of tax returns that, at other times, would not result in such high fees. The sole purpose of “999 charge weeks” is to maximize the amount of revenue generated by LBS stores, and the high fees charged during these periods are not based on the difficulty or amount of time in preparing customers’ tax returns.

157. Customers must also pay the “service bureau” and “LBS transmittal” fees, totaling \$74, and fees to Drake software and EPS Financial (the refund processor) of \$7 and \$15 to \$20, respectively, in 2013. Thus, for a customer to have LBS prepare and e-file a basic federal income tax return (which is the appropriate return for the majority of customers), the actual bare minimum is far more than the \$75 advertised amount.

158. The high fees (and fee structure, which encourages the addition of unnecessary and often improper forms and schedules to the Form 1040) are a strong incentive for LBS to prepare and file fraudulent returns claiming excessive refunds based on bogus claims and associated forms and schedules.

159. Because LBS targets low-income individuals, the high fees frequently pose a significant financial hardship for its customers. Additionally, fees are unconscionable for the basic tax returns being prepared for these customers, who are often eligible for free tax return preparation and electronic filing elsewhere.

160. Mesadieu and his LBS stores also routinely and intentionally fail to disclose to customers all fees charged. LBS trains its employees how to present forms to customers to sign, including a form acknowledging the fees charged, without allowing the customer to closely review or understand the forms they are signing. Alternatively, LBS tells customers one amount for fees and then later increases the fees without the customers' knowledge or consent. Customers are often surprised to learn that the refund requested on their return is hundreds if not thousands of dollars more than the refund amount that they received after the fees were deducted.

161. Customers often complain that they did not know in advance that they would be charged exorbitant fees. LBS provides its customers with the amount of the refund that they will be receiving, which is much less than the refund amount that was actually claimed on their tax return (which is not disclosed to customers at the time their tax returns are prepared). This is a recurring theme of complaints filed with the IRS and the Better Business Bureau, as well as local news reports regarding LBS locations across the country.

162. Mesadieu is well-aware of his customers' complaints about being charged undisclosed fees. In January and February 2013 alone, numerous customers complained by letter, phone, or in-person to Mesadieu and the Mesadieu-owned LBS stores where they had their tax returns prepared. For complaints received at Mesadieu's LBS stores, some of the employees at these stores emailed Mesadieu (or his assistant) to notify him of the complaints and request guidance on how to handle them.

163. To the extent that customers are advised that additional fees may be charged per each additional form, they are not advised upon completion of the preparation of the tax return the total amount of those fees. If customers question the fee, LBS employees are instructed to tell the customer how much more money the preparer got the customer by adding additional

forms to the tax return to increase the refund, and that, as the preparer stated in the initial “presentation script” each of those forms to get the customer more money back costs an additional fee.

164. LBS’s fees are not paid by customers at the time of the preparation of their tax returns, but instead are subtracted from the customers’ tax refund. By doing so, LBS is able to conceal from unsuspecting customers the actual amount that the customers pay to have their tax return prepared. Customers typically do not discover that LBS charged much more than the customers anticipated for the preparation of their tax return until the customers receive a refund that is much less than quoted by the tax return preparer because LBS had subtracted its high fees.

165. Tax refunds issued to customers are directed from the IRS to a third-party processor’s bank account. The processor then deducts and transmits the fees owed to Gachette and Mesadieu for preparing the tax returns. The remaining refund amount is then directed to the customer, through direct deposit or check. The check issued to the customer makes no reference to the amount of fees deducted, which makes it easy for LBS to conceal, inflate and/or lie about its fees.

166. LBS’s practice of charging unconscionable and undisclosed fees violates consumer protection laws. The undisclosed and unconscionable fees also interfere with the administration and enforcement of the internal revenue laws. Potential customers go to LBS believing that they will be charged a reasonable fee for the honest and accurate preparation of their tax return. Instead, LBS charges unconscionable fees (based on the inclusion of additional forms and schedules that frequently make fabricated claims designed to fraudulently increase the customers’ refund), that are subtracted from customers’ falsely inflated refunds, without full disclosure to the customer. Such predatory behavior erodes consumer confidence in tax return

preparers and dissuades taxpayers from seeking professional assistance with the preparation of their federal tax returns.

167. In 2013, the State of Texas sued LBS Tax Services, Tax Advance, Inc., Platinum Capital Group, Inc., and Tax Aid LLC, among others, in state court alleging that LBS offices in Houston “engaged in unlawful and deceptive acts and practices in violation of the Texas Deceptive Trade Practices Act.” (*See State of Texas v. LBS Tax Service, et al.*, No. 2013-17062 (Harris County Texas, 11th Judicial District)). Texas alleged that LBS “uses aggressive advertising techniques” and that its “advertisements guarantee the ‘maximum tax refund allowed’ for a fee of only \$75,” but that consumers “later learn” that LBS “withheld hundreds of dollars more from consumers; tax refund than the amount originally quoted.” According to the complaint, LBS “used this scheme to fraudulently obtain thousands of dollars from consumers all over Harris County.”

**Failure to Provide Customers with Copies of their Completed Tax Returns
in Violation of 26 U.S.C. § 6701(a)**

168. Mesadieu and many of his managers and preparers commonly fail to provide customers with copies of their completed tax returns. The completed tax return, filed with the IRS, shows the refund that LBS is claiming for the customer. By giving a copy of the tax return to the customer, the customer is able to determine the amount of fees charged by LBS by subtracting the amount of the refund that the customer actually receives from the amount of the refund claimed on the tax return. LBS’s failure to provide a copy of a customer’s completed tax return is part of LBS’s strategy to conceal its actual fees from its customers.

169. Failing to provide a customer with a copy of the completed tax return also violates 26 U.S.C. § 6107(a), which requires that a tax return preparer “shall furnish a completed copy of

[a tax return or claim for refund] to the taxpayer not later than the time such return or claim is presented for such taxpayer's signature."

170. LBS's training "test" states that employees should provide a customer with a copy of the customer's tax return, but "Only if we will be E-filing the same day or if we have already E-filed." In reality, LBS customers do not receive copies of their tax returns, particularly those whose returns are prepared based on a pay stub days or weeks before the IRS even begins to accept filed tax returns. The answer to the LBS "test" question about whether to "give customers their copies of their 1040 tax papers" on January 5, 2013 is simply "NO."

171. Not only does LBS not provide a copy of the completed tax return to customers at the time it is prepared, but it fails to provide a copy after electronically filing the return, and also refuses to provide a copy later on the customer's demand.

**Examples of the Widespread and Common Fraud at
Mesadieu's LBS Tax Services Locations**

172. Interviews of a random sampling of customers of Mesadieu's Houston-area LBS stores, and reviews of those customers' tax returns, illustrate the pervasive fraudulent activity described in this complaint. The IRS interviewed 115 customers whose returns were prepared at those stores. In addition to the customers described above, the following examples show the rampant fraud.

173. J. and D.V. had their 2012 federal income tax return prepared at the LBS store located at 12378 Woodforest Blvd, Houston, Texas. The Vs. went to LBS after seeing signs stating how much money they would receive per child. J.V. provided a copy of his Form W-2 to the preparer, along with his children's social security cards and school records. The LBS preparer told the Vs. that she could find them credits to increase their refund, and the Vs. asked

her not to do anything that would be considered wrong. The preparer asked J.V. how many miles he lived from work, and how much J.V. spent on clothes, shoes, and his phone. J.V. told the preparer that those were just personal expenses and did not give the preparer any amounts. LBS, however, falsely claimed on the Schedule A attached to the Vs.' tax return that the Vs. made \$5,696 in charitable contributions and \$21,592 in unreimbursed employee business expenses, including \$15,951 for vehicle expenses, \$764 for parking and tolls, \$3,627 for meals and entertainment, \$864 for boots, \$761 for uniforms, and \$1,438 for a cell phone. The Vs. had no such expenses and did not tell the preparer that they had these expenses. By falsely claiming \$27,837 in itemized deductions, LBS fraudulently claimed a bogus refund of \$4,436 on the Vs.' tax return. The Vs. were initially told by the LBS preparer that it would cost \$75 to have their tax return prepared. However, after receiving a notice from the IRS stating that their refund was \$4,436, of which they received only around \$3,000, the Vs. realized that they had been charged much more than \$75 (LBS took its fees from the refund). When the Vs. contacted the LBS preparer to complain, they asked to speak to the owner of the store. The LBS preparer then threatened to contact immigration services regarding the Vs.' residency status.

174. M.P. had her 2012 federal income tax return prepared at the LBS store located at 12136 Beechnut St., Houston, Texas. M.P. gave the LBS preparer her last paystub to have her tax return prepared. The preparer asked M.P. how many miles she drove to and from work each day, and falsely told M.P. that this information could be used to get her more deductions. M.P. told the preparer that she drove 20 miles each way to and from work, 5 days per week. The preparer then falsely claimed on the Schedule A attached to M.P.'s tax return \$23,980 in unreimbursed employee business vehicle expenses, based on a purported 43,207 miles driven for business in 2012. Even if commuting expenses were deductible (they are not), and assuming that

M.P. worked 52 weeks and drove 200 miles per week as she told the preparer, the preparer still overstated her mileage by 32,807 miles. LBS also falsely claimed \$897 in parking fees and tolls and \$912 in meals and entertainment on the Schedule A. LBS fraudulently claimed a bogus refund in the amount of \$2,734 on M.P.'s tax return as a result of these fabricated deductions. LBS also told M.P. that she would be charged around \$500 to have her return prepared, but when LBS finally gave her a copy of her return (not at the time it was prepared), she noticed a difference in the refund quoted and the refunded requested in the return, and realized LBS charged her \$750. When M.P. questioned LBS about the difference, she was simply told that LBS could file an amended tax return without further explanation of how that would change the fee charged.

175. J.T. and C.B. had their 2012 federal income tax return prepared at the LBS store located at 12738 Woodforest Blvd., Houston, Texas. J.T. went to LBS after seeing a sign advertising how much money they would receive per child. J.T. was employed in 2012, while his wife attended community college. J.T. brought in his Form W-2, his kids' social security information, and his wife's college tuition statement. The LBS preparer asked J.T. if he had any job-related expenses. J.T. told the preparer that he spent around \$5,000 on specialty tools and \$500 for safety equipment. However, LBS falsely claimed on the Schedule A attached to the tax return that J.T. had \$29,612 in unreimbursed employee business expenses, including \$19,247 in vehicle expenses, \$973 in parking fees and tolls, and \$7,948 in meals and entertainment. LBS also falsely claimed that J.T. and C.B. made \$8,862 in charitable contributions, when in fact they had no such expenses, the preparer did not ask J.T. whether he made any contributions, and J.T. did not tell the preparer that he and his wife made any charitable contributions. By falsely claiming \$38,754 in itemized deductions, LBS claimed a bogus refund in the amount of \$8,990

on J.T.'s and C.B.'s tax return. LBS told J.T. that he would be charged \$293 based on the number of forms used to prepare his tax return. However, J.T. noticed when he received his refund that LBS had actually taken \$971. When J.T. went to the LBS office to question the fee, it was empty.

176. S.N. and S.P. had their 2012 federal income tax return prepared at the LBS store located at 11030 Bissonnet St., Houston, Texas. The S.N. and S.P. went to LBS after seeing yard signs advertising the amount of money they would receive per child. S.P. provided the preparer with copies of his Form W-2 and Form 1099. S.N. did not work in 2012. The LBS preparer asked S.P. what other work-related expenses he had, such as gas and travel expenses. S.P., who built laser machines in 2012, told the preparer that he spent \$50 on shoes for work. The LBS preparer also asked S.P. if he made any charitable contributions, and S.P. told the preparer that he gave no more than \$1,000 to his church in 2012. The LBS preparer then falsely reported on the Schedule A attached to the return that the S.N. and S.P. made \$3,569 in charitable contributions in 2012. LBS also falsely claimed that S.P. had unreimbursed employee business expenses totaling \$12,459, including \$9,762 in vehicle expenses, \$880 for meals and entertainment, \$859 for uniforms, and \$958 for a cell phone. By falsely claiming these itemized deductions, LBS claimed a bogus refund in the amount of \$7,724 on S.N.'s and S.P.'s tax return. LBS never showed S.P. a copy of the Schedule A with the fabricated expenses; the copy of the tax return that LBS provided to S.N. and S.P. only had pages 1 and 2 of the Form 1040.

177. M.M. and G.S. had their 2012 federal income tax return prepared at the LBS store located at 50 Aldine Bender Rd., Houston, Texas. M.M. and G.S. gave the LBS preparer a copy of their IDs, M.M.'s Form W-2, and their daughter's social security card. The preparer initially gave M.M. and G.S. a refund amount that was the same as the amount that M.M. was shown by a

software tax preparation service that he used at home. M.M. therefore told the preparer that he would just prepare the return himself at home. At this point, the LBS preparer told M.M. and G.S. that she would get an LBS manager to prepare the return, and that the manager could get M.M. and G.S. a larger refund. LBS then fabricated claims on a Schedule A and Schedule C attached to the tax return without M.M.'s and G.S.'s knowledge. On the Schedule A, LBS falsely claimed that M.M. and G.S. had unreimbursed employee business expenses totaling \$11,213, including \$10,068 for vehicle expenses and \$620 for meals and entertainment. LBS also falsely claimed that M.M. and G.S. made \$2,510 in charitable contributions. The LBS preparer did not ask M.M. or G.S. about any such expenses or contributions, and neither M.M. nor G.S. told the preparer that they had any such expenses or contributions, because they did not. On the Schedule C, LBS falsely claimed that M.M. had a construction business that had no sales but incurred \$3,750 in expenses, for supplies, in 2012. M.M. and G.S. did not provide these amounts to LBS and do not know why these amounts were reported on their tax return. The LBS did not ask M.M. or G.S. whether either of them had a business, and M.M. did not have any business in 2012. By falsely claiming these itemized deductions and the phony business loss, LBS fraudulently claimed an EITC in the amount of \$1,535 and a bogus refund of \$4,627 on M.M.'s and G.S.'s tax return.

178. J.R. had his 2012 federal income tax return prepared at the LBS store located at 5312 Telephone Rd., Houston, Texas. In 2012, J.R. lived with his girlfriend and her two kids. J.R. gave the preparer a copy of his Form W-2 and copies of the social security cards for his girlfriends' children, which do not show any relationship between J.R. and the children. However, LBS falsely claimed J.R.'s girlfriend's children on his tax return and reported them as his nephews. J.R. told the LBS preparer that he travels for work, gets reimbursed by his

employer for travel expenses (including per diem), and drives a company car when travelling from work. LBS, however, falsely reported on the Schedule A attached to the return that J.R. had unreimbursed employee business expenses totaling \$18,609, including \$10,708 in vehicle expenses, \$2,108 for meals and entertainment, \$2,769 for a cell phone, and \$1,956 for supplies. LBS also falsely reported that J.R. made \$6,257 in charitable contributions, when he did not and did not tell the preparer that he contributed this much in 2012. As a result, LBS claimed a bogus refund of \$5,240 on J.R.'s tax return. LBS did not tell J.R. how much it was charging him to prepare his return, and he only realized he was charged around \$800 when comparing the refund amount he received with the amount requested on his tax return.

179. M.F. had his 2012 federal income tax return prepared at the LBS store located at 4919 Griggs Rd., Houston, Texas. M.F. gave the LBS preparer a copy of his Forms W-2 from his two employers, showing that he earned \$44,191 in wages. In 2012, M.F.'s three nieces lived with him, but they were not legal residents of the United States and did not qualify as dependents. However, the LBS preparer did not ask M.F. any questions about his nieces, other than to ask for their names and individual taxpayer identification numbers. The LBS preparer then falsely claimed the nieces as dependents, and falsely claimed head of household filing status on M.F.'s tax return. LBS fabricated expenses on a Schedule A attached to M.F.'s tax return, claiming that M.F. had unreimbursed employee business expenses in the amount of \$11,558, including \$9,293 in vehicle expenses. LBS also falsely claimed on a Schedule C attached to the tax return that M.F. had a business that had \$812 in sales and \$7,992 in expenses, including \$164 for advertising, \$745 for repairs and maintenance, \$2,955 in supplies, \$3,120 for travel, and \$1,008 for meals and entertainment, for a loss of \$7,180. By claiming the non-qualifying

dependents, head of household status, fabricated Schedule A deductions, and phony business loss, LBS fraudulently claimed a refund of \$5,780 on M.F.'s tax return.

180. A.F. had her 2012 federal income tax return prepared at the LBS store located at 11030 Bissonnet St., Houston, Texas. A.F. went to LBS because of a flyer advertising the amount of a refund that she could get per child. A.F. provided LBS with a copy of her last paystub (used to prepare the return), ID, and social security cards for her children. The preparer did not ask any additional questions about whether they actually qualified as dependents (they did not, because they receive social security benefits that cover the majority of the costs for the household), and falsely reported them as dependents and claimed head of household status on A.F.'s tax return. The preparer asked A.F. if she had a business, and she replied that she did not. However, LBS falsely reported on the Schedule C attached to the return that A.F. had a "transportation" business that had sales of \$6,230 and expenses of \$1,586, for a profit of \$4,644. By claiming this additional phony income, LBS fraudulently claimed an EITC in the amount of \$5,236 and a bogus refund of \$7,000. The copy of the tax return provided to A.F. – which she did not receive until after getting her refund – did not include a copy of the Schedule C. LBS initially told A.F. that it would cost \$200 to prepare her return, but when A.F. received her refund she realized that LBS charged her \$975 and deducted it from her refund. When she called LBS to complain, she was told it was too late and the manager was not available to talk to her.

181. R.G. had his 2012 federal income tax return prepared at the LBS store located at 4010 Highway 6 South, Houston, Texas. R.G. gave the LBS preparer Forms W-2 for four or five of his jobs, and either a paystub or Form W-2 for the other job. R.G. also told the preparer that his girlfriend and their two children lived with him off and on in 2012. A woman prepared R.G.'s tax return, while a man stood over her and watched; R.G. was told that the man was there

to help get R.G. a larger refund. LBS falsely claimed R.G.'s girlfriend as a dependent (with relationship claimed as "other") on his tax return. LBS falsely reported that R.G. only earned wages in the amount of \$462 from one of his employers, when he actually earned wages totaling \$17,630 from that employer, and LBS had this information. By fraudulently underreporting R.G.'s income and claiming a bogus dependent, LBS falsely claimed an EITC in the amount of \$5,236 and a bogus refund of \$8,050. LBS did not provide R.G. with a copy of his tax return and he was unaware that his income had been underreported.

182. J.N. had his 2012 federal income tax return prepared at the LBS store located at 736 Wilcrest Dr., Houston, Texas. J.N. received wages totaling \$37,708 in 2012, and provided the LBS preparer with a copy of his Form W-2 and the social security numbers of his children. J.N. told the LBS preparer that he was married, but the preparer falsely told him that he should file as head of household, and reported head of household filing status on his tax return. The preparer asked J.N. if J.N. paid his cell phone bill and whether he purchased gas and boots for work. J.N. lived 4 miles from his job in 2012 and did not incur many commuting miles or gas expenses (which are not deductible). The LBS preparer then fabricated deductions totaling \$24,862 on the Schedule A attached to his return. LBS falsely claimed that J.N. had unreimbursed employee business expenses totaling \$19,679, including \$14,034 for vehicle expenses (for a purported 25,287 miles driven for business), \$1,827 for parking fees and tolls, \$964 for meals and entertainment, \$982 for uniforms, and \$1,872 for a cell phone. LBS also falsely claimed that J.N. had medical expenses of \$1,652 and made charitable contributions of \$5,287, when J.N. did not incur such expenses and did not tell the preparer that he had any such expenses. By falsely claiming head of household status and the fabricated Schedule A

deductions, LBS fraudulently claimed an EITC in the amount of \$890 and a bogus refund of \$5,472 on J.N.'s tax return.

183. M.G. and M.A.G. had their 2012 federal income tax return prepared at the LBS store located at 4919 Griggs Rd., Houston, Texas. The Gs. went to LBS after seeing yard signs advertising the refund amount that they would receive per child. The LBS told M.G. that she would get the Gs. the maximum refund, more than any other tax return preparer would. M.G. provided the LBS preparer with a copy of his Form W-2, the Gs.' IDs, and the social security cards for his children. The LBS preparer falsely claimed on the Schedule A attached to the Gs.' tax return that M.G. had unreimbursed employee business expenses totaling \$12,682, including \$10,132 for vehicle expenses. The Schedule A also falsely reported that the Gs. made \$3,375 in charitable contributions, when, M.G. told the preparer that the Gs.' made \$10 weekly contributions to their church (or \$520 annually). On the Schedule C attached to the Gs.' tax return, LBS falsely reported that M.G. had an unidentified business that had sales of \$985, but incurred expenses totaling \$10,391, including \$3,252 for car and truck expenses, \$5,125 for supplies, and \$2,014 for travel. M.G. did not have a business and was unaware that LBS reported this non-existent business on his tax return. By claiming these fabricated Schedule A expenses and phony business loss, LBS fraudulently claimed an EITC in the amount of \$2,210 and a bogus refund in the amount of \$7,266 on the Gs.' tax return.

184. L.A. had her 2012 federal income tax return prepared at the LBS store located at 4921 Griggs Rd., Houston, Texas. L.A. worked at a restaurant from which she received wages totaling \$34,682 in 2012. L.A. provided the LBS preparer with a copy of her Form W-2 and the social security numbers of her children. On the Schedule A attached to L.A.'s return, LBS falsely claimed that L.A. made \$2,843 in cash charitable contributions, \$480 in non-cash

charitable contributions, and had \$10,280 in unreimbursed employee business vehicle expenses, purportedly for 18,522 business miles driven in 2012. L.A. did not make any charitable contributions in 2012, nor did she have any unreimbursed business vehicle expenses; her only job-related mileage was for commuting to and from work. L.A. did not tell the LBS preparer that she had any such expenses. LBS also falsely claimed on the Schedule C attached to L.A.'s tax return that she had a business, purportedly called "L____ Cleaning Services," that had gross receipts of \$1,035, but incurred expenses totaling \$11,616, for a loss of \$10,581. The phony expenses included \$135 for advertising, \$5,466 for car and truck expenses, \$1,780 for repairs and maintenance, \$2,520 for supplies, \$1,325 for travel, and \$390 for deductible meals and entertainment. L.A. did not have any business in 2012 and did not tell the LBS preparer that she had any business or related income or expenses. By claiming the phony business and the fabricated deductions on the Schedule A, LBS fraudulently claimed an EITC in the amount of \$3,754 and a bogus refund of \$7,848 on L.A.'s tax return.

185. S.D. had her 2012 federal income tax return prepared at the LBS store located at 10600 Northwest Freeway, Houston, Texas. S.D. went to LBS after receiving a flyer stating how much of a tax refund she could receive per child, and that you did not need to work to get the refund. S.D. did not work in 2012. S.D. was married, and told the LBS preparer that she was married. However, the LBS preparer falsely claimed head of household filing status on S.D.'s tax return. The LBS preparer did not ask S.D. whether she had any business income in 2012; however, LBS falsely claimed on the Schedule C attached to S.D.'s tax return that she had a business, called "DS Nail Design," that had sales totaling \$14,765 and expenses of \$496. S.D. did not tell the preparer that she had this income. LBS also falsely claimed HSH income in the amount of \$1,332 on S.D.'s tax return. By claiming the bogus HSH and business income, LBS

falsely reported S.D.'s total income as \$15,601. As a result of the phony income and improper filing status, LBS falsely claimed an EITC in the amount of \$5,236 and a bogus refund of \$5,222 on S.D.'s tax return.

186. F.G. had his 2012 federal income tax return prepared at the LBS store located at 50 Aldine Bender Rd., Houston, Texas. F.G. and L.G., who considered themselves to be common law married in 2012, went to LBS after receiving a flyer at Wal-Mart. The LBS preparer falsely told F.G. that L.G. was too young to file a joint return, but told F.G. that he could claim L.G.'s son as a dependent on his tax return. LBS then claimed L.G.'s son as a "stepchild" on F.G.'s return, and falsely claimed head of household filing status. F.G. provided LBS with copies of his last paystubs from several jobs that he had in 2012. LBS used these paystubs to prepare F.G.'s tax return and, as a result, underreported his income by \$289. As a result of the bogus dependent and false filing status, LBS fraudulently claimed an EITC in the amount of \$3,137 and a bogus refund of \$4,152 on F.G.'s tax return. LBS initially told F.G. that it would charge \$75 to prepare his tax return, but LBS subtracted around \$800 in fees from his refund. LBS did not provide F.G. with a copy of his completed tax return.

187. C.M. had her 2012 federal income tax return prepared at the LBS store located at 50 Aldine Bender Rd., Houston, Texas. LBS reported that C.M. received wages in the amount of \$5,614; however, the Form W-2 issued by her employer shows that she received wages in the amount of \$5,647. C.M. worked in a school cafeteria in 2012. The LBS preparer asked C.M. if she had any other income in 2012, and C.M. replied that she did not. The LBS prepare then asked if she could include a Schedule C business for childcare or hairstyling on C.M.'s tax return, and C.M. told her no. However, LBS falsely claimed on the Schedule C attached to the return that C.M. had a child care business that had gross receipts in the amount of \$6,459, and

expenses of \$1,792. LBS also falsely claimed that C.M. received HSH income in the amount of \$1,500. C.M. did not receive any such income in 2012. By including this fabricated HSH income and phony business income, LBS fraudulently claimed an EITC in the amount of \$5,164 and a bogus refund of \$5,859 on C.M.'s tax return. LBS told C.M. that it would charge her \$150 to prepare her return, but then subtracted around \$800 in fees from C.M.'s tax refund.

188. D.R. had her 2012 federal income tax return prepared at the LBS store located at 10600 Northwest Freeway, Houston, Texas. D.R. went to LBS after a man approached her in a parking lot and told her that LBS could get large tax refunds for people with children. D.R. provided the LBS preparer with copies of Forms W-2 from her three jobs. From these three jobs, D.R. received \$3,032 in 2012. The LBS preparer asked D.R. if she received any other income in 2012, and she replied that she did not. However, LBS falsely reported that D.R. received \$10,175 in wages, or \$7,143 more than she actually earned. By including this fabricated income, LBS fraudulently claimed an EITC in the amount of \$3,169 and a bogus refund of \$4,294 on D.R.'s tax return.

189. Interviews of randomly-selected customers of Mesadieu-owned stores in other geographic areas revealed the pervasive fraud occurring at his LBS stores.

190. B.R. had her 2012 federal income tax return prepared at the LBS store located at 2945 Stone Hogan Rd., Atlanta, Georgia. In 2012, B.R. was employed at J.C. Penney, and received wages totaling \$6,485. B.R. went to LBS in December 2012, before the tax year was over, and before her employer had issued a Form W-2. B.R. gave LBS a copy of her last paystub. LBS falsely reported HSH income in the amount of \$1,799 (thereby falsely reporting wages totaling \$8,284) on B.R.'s tax return. LBS also falsely reported on the Schedule C attached to the return that B.R. had a cleaning business called "R____ Cleaning," and that she

received income of \$10,525, and had expenses of \$1,954, for a profit of \$8,571. B.R. had no such business, did not tell LBS that she had such a business, and was unaware that LBS had reported this non-existent business and income on her tax return. By reporting this phony business and HSH income, LBS fraudulently claimed an EITC in the amount of \$5,236, and a bogus refund of \$6,324 on B.R.'s tax return. LBS did not tell B.R. how much she would be charged; B.R. believes she was charged \$1,200 or more because she received a refund of approximately \$5,025, and her tax return claims a refund of \$6,324.

191. J.T. had her 2012 federal income tax return prepared at the LBS store located at 3605 Columbia St., Orlando, Florida. In 2012, J.T. was married, and told the LBS preparer that she was married. However, the LBS preparer falsely reported J.T.'s filing status as head of household. J.T. earned approximately \$1,500 in 2012 working as a babysitter, and also received income from social security. LBS falsely reported HSH income of \$1,436 on J.T.'s tax return. On the Schedule C attached to J.T.'s tax return, LBS reported J.T.'s babysitting business, but falsely inflated the amount of income she received from \$1,500 to \$13,478. LBS also reported bogus expenses totaling \$826. By reporting a profit of \$12,652, along with the bogus HSH income, LBS falsely claimed an EITC in the amount of \$5,236, and a bogus refund of \$4,682. After preparing the return, LBS told J.T. that she would be charged \$800. J.T. then told LBS not to file her return because that amount was too high, but LBS filed the return without her permission. LBS also gave J.T. a copy of her tax return that did not match the tax return filed with the IRS. For example, the copy of the return filed with the IRS listed total Schedule C income of \$12,652; the copy provided to J.T. listed \$12,906. The copy filed with the IRS claimed a refund of \$4,682, while the copy provided to J.T. claimed a refund of \$4,651. The names of the return preparers listed on the tax returns also differed.

192. K.K. had her 2012 federal income tax return prepared at the LBS store located at 8840-2 Atlantic Blvd., Jacksonville, Florida. K.K. received wages in the amount of \$817 in 2012 and earned around \$4,000 from babysitting. K.K. gave the LBS preparer copies of her Form W-2, ID, and social security cards for her children. LBS falsely reported HSH income in the amount of \$1,727 on K.K.'s tax return. On the Schedule C attached to K.K.'s tax return, LBS fraudulently inflated the amount of income that K.K. received from babysitting, reporting that K.K. had gross receipts totaling \$14,457, and expenses of \$1,232, for a profit of \$13,225. By reporting this fraudulently inflated business income, along with the phony HSH income, LBS falsely claimed an EITC in the amount of \$5,891, and a bogus refund of \$6,090 on K.K.'s tax return. K.K. originally went to LBS just for an estimate, but learned that her return was filed without her knowledge or permission. LBS did not give K.K. a copy of her return; K.K. went back to the LBS store more than once to get a copy, and was repeatedly told that the printer was not working.

193. R.R. had his 2012 federal income tax return prepared at the LBS store located at 8840-2 Atlantic Blvd., Jacksonville, Florida. R.R. was self-employed as a barber in 2012, and also occasionally cut laws, and did not receive any income reported on a Form W-2 or 1099. R.R. earned no more than \$8,000 in 2012. However, LBS also falsely claimed on the Schedule C attached to the tax return that R.R. had gross receipts totaling \$14,875 and expenses of \$777, for a profit of \$14,098. LBS also falsely reported HSH income in the amount of \$2,347 on line 7 of R.R.'s tax return. By reporting this fraudulently inflated business income, along with the phony HSH income, LBS falsely claimed an EITC in the amount of \$5,236, and a bogus refund of \$5,371 on R.R.'s tax return.

Examples of Customers Deposed by the State of Texas

194. Some of Mesadieu's customers were deposed by the State of Texas in 2013 as part of its lawsuit against LBS Tax Services. While the Texas lawsuit focused on LBS's undisclosed fees, many customers testified not only about those fees, but about LBS's fraudulent return practices as well.

195. Z.C. had her 2012 federal income tax return prepared at the LBS store located at 50 Aldine Bender Rd., Houston, Texas. Z.C. The LBS preparer asked how much of a refund Z.C. received the year before when her return was prepared at another tax return preparation business and, after Z.C. responded, the preparer told Z.C. that "I'm going to try to get you more." The preparer then began to ask Z.C. what she spent on school supplies and gas. The LBS preparer used this information to fabricate unreimbursed employee business expenses on the Schedule A attached to Z.C.'s tax return, including \$9,192 in vehicle expenses and \$362 in meals and entertainment. LBS did not provide Z.C. with the amount of the return preparation fee. LBS did not provide Z.C. with a copy of her return until two or three days after it was prepared, at which point Z.C. noticed the fee amount of approximately \$775 (by subtracting the amount of the refund LBS told her she would receive from the amount of the refund claimed on the tax return) and the bogus unreimbursed business expenses. Z.C. brought these issues to the attention of the person who she believed was the manager of the LBS store, who replied that he could not change anything.

196. S.I. had her 2012 federal income tax return prepared at the LBS store located at 12738 Woodforest Blvd., Houston, Texas after being approached by an LBS employee at Kroger. The LBS employee asked S.I. if she had kids, told her that she could get money back (even though she told the preparer she only worked for approximately two months in 2012), and

also told her that the return preparation fee would be \$75. S.I. worked at Wal-Mart in January 2012 and again in November and December 2012. S.I. told the LBS return preparer that she was married, and the LBS preparer began preparing the return claiming a married filing status, but then falsely claimed head of household filing status on S.I.'s tax return. The preparer asked S.I. if she did any other work, and S.I. replied that she did not, but the LBS preparer falsely reported on the Schedule C attached to the tax return that S.I. earned \$14,618 through a non-existent housekeeping business. S.I. had no such business or income. By falsely claiming head of household status and the bogus income, LBS fraudulently requested a refund in the amount of \$5,236 on S.I.'s 2012 tax return. LBS also charged S.I. over \$900 in tax return preparation fees without her knowledge.

197. O.G. and A.M., who are not married, had their 2012 federal income tax returns prepared at the LBS store located at 11030 Bissonet St., Houston, Texas after being approached by an LBS employee inside an HEB grocery store. The LBS employee told O.G. and A.M. that LBS would prepare their tax returns for \$75, and that LBS could prepare their tax returns using their last pay stubs. LBS actually charged A.M. \$200, and O.G. \$800, to prepare their returns. A.M. and O.G. were unaware that they were being charged this amount. A.M. was told that she could not have a copy of her tax return until after the IRS accepted it. O.G. and A.M. repeatedly requested a copy of her tax return, but LBS never gave her a copy.

198. S. Z. had his 2012 federal income tax return prepared at the LBS store located at 7400 Harwin Dr., Houston, Texas after seeing a yard sign advertising around \$3,000 per child. S.Z. and his wife have three children; however, rather than prepare a proper tax return for S.Z. and his wife reporting their filing status as married and claiming their three children as dependents, LBS falsely reported S.Z.'s filing status as head of household, and fraudulently

claimed three dependents, whose relationships were identified as a niece, a nephew, and an "other," on S.Z.'s tax return. LBS told S.Z. that he would be charged \$250 to have his return prepared. However, LBS actually charged S.Z. over \$800, without his knowledge, to prepare his tax return.

199. C.G. also had her 2012 federal income tax return prepared at the LBS store located at 7400 Harwin Dr., Houston, Texas after seeing yard signs advertising tax return preparation. LBS told C.G. that the fee to have her return prepared would be \$75. C.G. went to LBS, but her final return was not prepared in her presence. At the first visit, the LBS preparer prepared a return and told C.G. that she would be getting a refund of around \$1,700. About a week and a half after this initial visit, the LBS preparer called C.G. to tell her that the preparer was trying to get C.G. more money back. C.G. returned to LBS to pick up her refund check, which she was not expecting, because she owed the IRS money for the previous year. It was only after receiving a letter from the IRS specifying the amount of her refund that was applied to the previous year's debt that C.G. learned that LBS actually charged her over \$700 to prepare her return.

200. W.O. had his 2012 federal income tax return prepared at the LBS store located at 14601 Bellaire Blvd., Houston, Texas after two LBS employees approached him at Wal-Mart, telling him that LBS would prepare his tax return for \$75. In 2012, W.O. worked for a retail store, and also had a travel agency business. As a result, he needed LBS to prepare a Schedule C for his business. W.O. knew he owed taxes for his business. At the LBS store, the return preparer originally told W.O. that he would be receiving a refund of around \$2,300. W.O. was confused because he knew that he owed taxes for his business. A manager then reviewed W.O.'s tax return on the computer, and then told W.O. that his refund would actually be \$6,510 – \$4,000

more than he was told shortly before. LBS did not provide W.O. with a copy of his tax return, but the manager asked W.O. to have a document regarding his business notarized. According to W.O., when he returned to LBS with the business documents, the manager “was surprised,” and made a comment about W.O. “really hav[ing]” a business. The LBS manager also told W.O. that the fee for preparing the Schedule C was \$300, so W.O. believed that he would be charged \$375 for the preparation of his tax return. LBS actually charged W.O. over \$900, which he did not realize until he received his tax refund and it was much less than LBS told him it would be. According to W.O., LBS had him sign a blank fee form, which provides the fee amount to the customer, and LBS subsequently filled in the fee amount, so that W.O. did not know how much he was being charged. In addition, LBS falsely reported a friend of W.O. as a dependent on W.O.’s tax return, and falsely told W.O. that this friend qualified as his dependent. LBS also falsely reported on the EITC due diligence checklist that W.O.’s son, also claimed as a dependent, was mentally disabled, that W.O. provided LBS with a tribal statement to prove his son’s residency (when they are not members of any tribe), and that both of the son’s parents were deceased, when, in fact, W.O. was not deceased.

Investigations, Lawsuits, and Penalties have Not Deterred the Defendant

201. Despite knowing of the widespread and pervasive fraudulent conduct surrounding his tax return preparation business, the IRS’s examinations of LBS customers’ tax returns and assessment of penalties against Tax Advance, Inc. for failing to comply with the due diligence requirements, lawsuits filed by the State of Texas against Mesadieu and his businesses and by H & R Block against LBS, and the well-publicized complaints, including those by the Better Business Bureau, online consumer protection sites, and various local media outlets throughout the country, Mesadieu has not taken any meaningful steps to stop the fraud.

202. In fact, the only apparent change in 2014 is that Mesadieu's LBS stores began doing business under the name Milestone Tax Services.

203. To the extent that Mesadieu claims that he does not know of the fraud committed by his LBS stores, his ignorance is deliberate, and he, in furtherance of his own greed, intentionally ignores and turns a blind eye to complaints documenting LBS's fraudulent practices.

204. Mesadieu has little incentive to stop the wrongdoing because he directly profits from the misconduct at his LBS stores by taking a percentage of all gross revenues. Accordingly, Mesadieu promotes a culture of greed that favors volume and profits over accuracy and integrity, and creates an environment where fraudulent tax return preparation and violations of federal tax laws flourish.

Harm Caused by the Defendant

205. Mesadieu's knowledge and encouragement of fraud at his tax return preparation stores, false and misleading statements directed to customers and potential customers, and culture favoring volume and profits over accuracy and integrity, have harmed the public and the United States Treasury. Mesadieu and many of his managers and preparers prepare false or fraudulent tax returns that understate their customers' correct income tax liabilities and illegally cause customers to incorrectly report their federal tax liabilities and underpay their taxes.

206. The fraudulent practices of Mesadieu and many of his managers and preparers harm the United States Treasury in the form of lost tax revenue. For instance, the IRS randomly sampled 230 customers whose 2012 tax returns were prepared at LBS stores that Mesadieu owned in the Houston metropolitan area. The IRS interviewed 115 taxpayers and reviewed their

LBS-prepared tax returns. The IRS estimates that the tax loss from Mesadieu-owned LBS stores in the Houston metropolitan area for tax year 2012 alone is in the millions of dollars.

207. Mesadieu's customers have also been harmed because they relied on LBS to prepare proper tax returns. Instead, customers' tax returns substantially understated their correct tax liabilities after paying unconscionably high fees to have their tax returns prepared. As a result, many customers, who are often low-income taxpayers, now face large income tax debts and may be liable for sizeable penalties and interest.

208. Customers are harmed by the unconscionably high and frequently undisclosed tax preparation fees and related bogus fees tied to anticipated tax refunds. These fees are subtracted from the erroneous refunds that result from LBS's fraudulent tax return preparation. When the IRS conducts audits or examinations of customers and seeks repayment of these erroneous refunds, the customers are liable for the repayment of those refunds. Not only do customers face the hardship associated with repayment of erroneous refunds resulting from LBS's culture of greed at others' expense, but customers may also have to repay the portion of the refund that LBS subtracted for its high fees. Customers may also have to pay additional fees to other tax return preparers who will file correct, accurate amended tax returns to correct the fraudulent tax returns that LBS prepared and filed.

209. Other customers are harmed by LBS's fraudulent practices because they have lost or become ineligible for federal and/or state benefits due to the false claims that LBS made on their tax returns.

210. Mesadieu's misconduct further harms the United States and the public by requiring the IRS to devote scarce resources to detecting the fraud and assessing and collecting lost tax revenues from defendants' customers. IRS employees have spent thousands of hours

conducting audits or reviewing tax returns prepared by LBS and interviewing hundreds of customers. In addition, IRS employees have devoted still more time making compliance visits to various franchises. Consequently, identifying and recovering all lost tax revenues resulting from LBS's fraudulent and illegal activities may be impossible.

211. Mesadieu's conduct also harms honest tax return preparers who refuse to engage in such illegal conduct. Honest tax return preparers unfairly lose business to LBS as a result of LBS's willingness to break the law. Customers often have their returns prepared with paystubs at LBS because law-abiding preparers do not prepare a tax return without an employer-issued Form W-2. Customers also have their returns prepared at LBS because LBS promises the maximum refund, and delivers by fabricating claims and deductions on customers' returns.

212. Finally, Mesadieu's misconduct harms the public at large by undermining public confidence in the federal tax system and encouraging widespread violations of the internal revenue laws.

213. The harm to the government and the public will increase unless Mesadieu is enjoined because—given the seriousness and pervasiveness of their illegal conduct—without an injunction, Mesadieu is likely to continue enabling the preparation of false and fraudulent federal income tax returns for customers. The number of Mesadieu-owned LBS stores increased dramatically in just 2 years, going from 8 stores in 2012 to 46 in 2013, and LBS's stated goal for total stores is 1,000 by 2016. An injunction will serve the public interest because it will put a stop to Mesadieu's illegal conduct and the harm that such conduct causes the United States and its citizens.

Count I
Injunction under I.R.C. § 7407

214. Section 7407 of the I.R.C. authorizes a district court to enjoin a tax return preparer from engaging in conduct subject to penalty under I.R.C. § 6694 or § 6695. Additionally, if the court finds that a preparer has continually or repeatedly engaged in such conduct, and the court further finds that a narrower injunction (i.e., prohibiting only that specific enumerated conduct) would not be sufficient to prevent that person's interference with the proper administration of the internal revenue laws, the court may enjoin the person from further acting as a tax return preparer. The prohibited conduct justifying an injunction includes, among other things, the following:

- a. Engaging in conduct subject to penalty under I.R.C. § 6694(a), which penalizes a return preparer who prepares a return or claim for refund that contains an unreasonable position and the return preparer knew (or reasonably should have known) of the position;
- b. Engaging in conduct subject to penalty under I.R.C. § 6694(b), which among other conduct, penalizes a return preparer who recklessly or intentionally disregards IRS rules or regulations;
- c. Engaging in conduct subject to penalty under I.R.C. § 6695(g), which penalizes a return preparer who fails to comply with the statutory due diligence requirements;
- d. Guaranteeing the payment of any tax refund or the allowance of any tax credit; or
- e. Engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

215. Section 7701(a)(36) of the I.R.C. defines tax return preparer to include not only the individual who physically prepares a tax return for compensation, but also anyone "who employs one or more persons" to prepare tax returns for compensation.

216. Mesadieu, as shown above in paragraphs 1 through 213, is a tax return preparer who has repeatedly and continually prepared or submitted returns or portions of returns (or employed or managed others who prepared or submitted returns or portions of returns) that contain unreasonable positions and substantially understate the liability for tax on the return. Mesadieu also advises, instructs, directs, and causes his managers, preparers, and employees to engage in tax fraud, and to prepare federal income tax returns asserting unreasonable, unrealistic, frivolous and fraudulent positions. Accordingly, Mesadieu knew (or reasonably should have known) of the unreasonable, unrealistic, frivolous and fraudulent positions.

217. Mesadieu and those acting in concert with him and at his direction have continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6694 by preparing federal tax returns that understate his customers' liabilities based on unrealistic, frivolous and reckless positions. Mesadieu, through the actions described above, recklessly or intentionally disregards IRS rules or regulations.

218. Mesadieu and those acting in concert with him and at his direction have continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6695. The Treasury regulations promulgated under I.R.C. § 6695(g) prohibit a return preparer from claiming the EITC without first conducting proper due diligence and documenting his or her compliance with the due diligence requirements. *See* 26 C.F.R. § 1.6995-2 (2011). Mesadieu advises, encourages, and causes his managers, preparers, and employees to circumvent these due diligence requirements and to ignore or disregard the information provided by customers.

219. Mesadieu's failure to comply with the due diligence requirements for the EITC violates Treasury Regulations and his willingness to falsify information to obtain the EITC for his customers shows a reckless and/or intentional disregard of IRS rules and regulations.

220. Mesadieu and those acting in concert with him and at his direction have continually and repeatedly prepared federal income tax returns that claim the EITC for customers where he and those acting in concert with him and at his direction have not conducted, let alone documented, the required due diligence procedures.

221. Mesadieu also fails to comply with I.R.C. § 6695(a), which requires that a tax return preparer provide a copy of the completed tax return to the taxpayer.

222. Mesadieu's continual and repeated violations of I.R.C. §§ 6694 and 6695 fall within I.R.C. § 7407(b)(1)(A), and thus are subject to an injunction under I.R.C. § 7407.

223. Mesadieu's continual and repeated fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws falls within I.R.C. § 7407(b)(1)(D), and thus is subject to an injunction under I.R.C. § 7407.

224. Mesadieu and those acting in concert with him and at his direction have continuously and repeatedly guaranteed refunds to customers and guaranteed the allowance of tax credits, including but not limited to the EITC. This conduct falls within I.R.C. § 7407(b)(1)(C), and thus is subject to an injunction under I.R.C. § 7407.

225. If Mesadieu is not enjoined from all tax preparation, he and those acting in concert with him and at his direction are likely to continue to prepare and file false and fraudulent tax returns.

226. Mesadieu's continual and repeated conduct subject to an injunction under I.R.C. § 7407, including his continual and repeated fabrication of expenses and deductions, is so flagrantly illegal and so egregious that it demonstrates that a narrow injunction prohibiting only specific conduct would be insufficient to prevent Mesadieu's interference with the proper administration of the internal revenue laws. Accordingly, Mesadieu should be permanently

barred from acting as a federal tax preparer, and from owning, operating, managing, controlling, licensing, franchising, or working for a tax return preparation business.

Count II
Injunction under I.R.C. § 7408

227. Section 7408 of the I.R.C. authorizes a district court to enjoin any person from engaging in conduct subject to penalty under either I.R.C. § 6700 or § 6701 if injunctive relief is appropriate to prevent recurrence of such conduct.

228. Section 6701(a) of the I.R.C. penalizes any person who aids or assists in, procures, or advises with respect to the preparation or presentation of a federal tax return, refund claim, or other document knowing (or having reason to believe) that it will be used in connection with any material matter arising under the internal revenue laws and knowing that if it is so used it will result in an understatement of another person's tax liability. Under I.R.C. § 6701(c)(1), the term "procures" includes "ordering (or otherwise causing) a subordinate to do an act," as well as "knowing of, and not attempting to prevent, participation by a subordinate in an act."

229. Mesadieu, through the actions detailed above in paragraphs 1 through 213, caused the presentation and preparation of false, fraudulent, and abusive tax returns and other documents. Mesadieu prepares, assists, and/or advises with respect to the presentation and preparation of federal tax returns for customers that he knows will understate their correct tax liabilities, because Mesadieu knowingly prepares, assists, and/or advises with respect to the presentation and preparation of returns claiming bogus expenses and deductions. Mesadieu procured and assisted the preparation of false and fraudulent tax returns by encouraging the filing of tax returns he knew were false or fraudulent, and by employing, training, and supervising tax

return preparers engaging in tax fraud. Mesadieu's conduct is thus subject to a penalty under I.R.C. § 6701.

230. In addition, Mesadieu has not altered his behavior despite being previously warned and assessed penalties for similar conduct. Mesadieu is likely to continue violating the law absent an injunction. Tax return preparation is Mesadieu's primary source of revenue. To maximize that income, Mesadieu instructs and directs his managers and preparers to prepare fraudulent returns. That fraudulent conduct, in turn, gives Mesadieu a competitive edge over law-abiding preparers. It also provides a means for Mesadieu to further exploit his customers by charging them unconscionably high fees, while Mesadieu's fraud simultaneously and callously exposes his customers to possible civil and criminal liability.

231. If the Court does not enjoin Mesadieu, he is likely to continue to engage in conduct subject to penalty under I.R.C. § 6701. Mesadieu's, and those acting in concert with him and at his direction, preparation of returns claiming improper expenses and deductions is widespread over many customers and tax years. Injunctive relief is therefore appropriate under I.R.C. § 7408.

Count III
Injunction and Disgorgement under I.R.C. § 7402(a)
Necessary to Enforce the Internal Revenue Laws

232. Section 7402 of the I.R.C. authorizes a district court to issue injunctions, orders, judgments, and decrees as may be necessary or appropriate for the enforcement of the internal revenue laws.

233. Mesadieu, through the actions described above in paragraphs 1 through 213, including, but not limited to, intentionally understating his customers' tax liabilities, has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

234. Unless enjoined, Mesadieu and those acting in concert with him and at his direction are likely to continue to engage in such improper conduct and interfere with the enforcement of the internal revenue laws. If Mesadieu is not enjoined from engaging in fraudulent and deceptive conduct, the United States will suffer irreparable injury by wrongfully providing federal income tax refunds to individuals not entitled to receive them.

235. While the United States will suffer irreparable injury if Mesadieu is not enjoined, Mesadieu will not be harmed by being compelled to obey the law.

236. Enjoining Mesadieu is in the public interest because an injunction, backed by the Court's contempt powers if needed, will stop Mesadieu's illegal conduct and the harm it causes the United States and to his customers.

237. The Court should impose injunctive relief under 26 U.S.C. § 7402(a).

238. Mesadieu's conduct, which substantially interferes with the enforcement of the internal revenue laws, caused the United States to issue tax refunds to individuals not entitled to receive them, and Mesadieu has unjustly profited at the expense of the United States by subtracting his exorbitant fees from those refunds.

239. The Court should enter an order under 26 U.S.C. § 7402(a) requiring Mesadieu to disgorge to the United States the proceeds that Mesadieu and his businesses received for the preparation of federal tax returns that make false or fraudulent claims.

WHEREFORE, the United States of America prays for the following:

A. That the Court find that Douglas Mesadieu has continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694 and 6695, and has continually and repeatedly engaged in other fraudulent or deceptive conduct that substantially interferes with the

administration of the tax laws, and that a narrower injunction prohibiting only this specific misconduct would be insufficient;

B. That the Court, pursuant to I.R.C. § 7407, enter a permanent injunction prohibiting Douglas Mesadieu from acting as a federal tax return preparer;

C. That the Court find that Douglas Mesadieu has engaged in conduct subject to penalty under I.R.C. § 6701, and that injunctive relief under I.R.C. § 7408 is appropriate to prevent a recurrence of that conduct;

D. That the Court find that Douglas Mesadieu has engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent equity powers and I.R.C. § 7402(a);

E. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting Douglas Mesadieu, and all those in active concert or participation with him, from:

- (1) acting as a federal tax return preparer or requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than himself;
- (2) preparing or assisting in preparing federal tax returns that he knows or reasonably should have known would result in an understatement of tax liability or the overstatement of federal tax refund(s) as penalized by I.R.C. § 6694;
- (3) owning, operating, managing, working in, controlling, licensing, consulting with, or franchising a tax return preparation business;
- (4) training, instructing, teaching, and creating or providing cheat sheets, memoranda, directions, instructions, or manuals, pertaining to the preparation of federal tax returns;

- (5) engaging in any other activity subject to penalty under I.R.C. §§ 6694, 6695, 6701, or any other penalty provision in the I.R.C.; and
- (6) engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

F. That the Court, pursuant to I.R.C. §§ 7402(a) and 7407, enter an order requiring Douglas Mesadieu to immediately and permanently close, because of the pervasive fraud, all tax return preparation stores that he owns directly or through Tax Advance, Inc., Platinum Capital Group, Inc., Princeton Capital Group, Inc., Galleon Capital Group, Inc., Santa Maria Group, Inc., Tax Aid, LLC, or any other entity, and whether those stores do business as LBS Tax Services, Milestone Tax Services, or under any other name;

G. That the Court, pursuant to I.R.C. §§ 7402(a) and 7407, enter an order appointing a receiver to sell all of the hard assets, such as computers (after any and all taxpayer information has been removed), electronics, and furniture, for all tax return preparation stores that Douglas Mesadieu owns directly or through Tax Advance, Inc., Platinum Capital Group, Inc., Princeton Capital Group, Inc., Galleon Capital Group, Inc., Santa Maria Group, Inc., Tax Aid, LLC, or any other entity, and whether those stores do business as LBS Tax Services, Milestone Tax Services, or under any other name;

H. That the Court, pursuant to I.R.C. § 7402(a), enter an order prohibiting Douglas Mesadieu, directly or through Tax Advance, Inc., Platinum Capital Group, Inc., Princeton Capital Group, Inc., Galleon Capital Group, Inc., Santa Maria Group, Inc., Tax Aid, LLC, or any other entity, from assigning, transferring, or selling any franchise agreement, independent contractor agreement, or employment contract related to LBS Tax Services, Milestone Tax Services, or any other tax return preparation business to which he or any entity under his control is a party;

I. That the Court, pursuant to I.R.C. § 7402(a), enter an order barring Douglas Mesadieu from: (1) selling to any individual or entity a list of customers, or any other customer information, for whom Douglas Mesadieu, LBS Tax Services, Milestone Tax Services, and any other business or name through which Mesadieu or those acting at his direction have at any time since 2009 prepared a tax return; (2) assigning, disseminating, providing, or giving to any current or former franchisee, General Sales Manager, District Sales Manager, manager, tax return preparer, employee, or independent contractor of Mesadieu, LBS Tax Services, Milestone Tax Services, or any other business through which Mesadieu prepares tax returns or owns or franchises a tax return preparation business, a list of customers or any other customer information for customers for whom Douglas Mesadieu, LBS Tax Services, Milestone Tax Services, and any other business or name through which Mesadieu or those acting at his direction have at any time since 2009 prepared a tax return; and (3) selling to any individual or entity any proprietary information pertaining to LBS Tax Services, Milestone Tax Services, and any other business or name through which Mesadieu or those acting at his direction have at any time since 2009 prepared a tax return;

J. That the Court, pursuant to 26 U.S.C. § 7402, enter an order requiring Douglas Mesadieu to disgorge to the United States the proceeds (the amount of which is to be determined by the Court) that Douglas Mesadieu, Tax Advance, Inc., Platinum Capital Group, Inc., Princeton Capital Group, Inc., Galleon Capital Group, Inc., Santa Maria Group, Inc., and Tax Aid, LLC received (in the form of fees) for the preparation of tax returns that make or report false or fraudulent claims, deductions, credits, income, expenses, or other information that results in the understatement of taxes, prepared since 2009 at LBS Tax Services and Milestone Tax Services stores owned by Douglas Mesadieu, Tax Advance, Inc., Platinum Capital Group, Inc.,

Princeton Capital Group, Inc., Galleon Capital Group, Inc., Santa Maria Group, Inc., and Tax Aid, LLC;

K. That the Court, pursuant to I.R.C. §§ 7402(a) and 7407, enter an order requiring Douglas Mesadieu to contact, within thirty days of the Court's order, by United States mail and, if an e-mail address is known, by e-mail, all persons for whom Douglas Mesadieu and his managers and preparers prepared federal tax returns or claims for a refund for tax years 2008 through 2013 to inform them of the permanent injunction entered against him, including sending a copy of the order of permanent injunction but not enclosing any other documents or enclosures unless agreed to by counsel for the United States or approved by the Court;

L. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring Douglas Mesadieu to produce to counsel for the United States, within thirty days of the Court's order, a list that identifies by name, social security number, address, e-mail address, and telephone number and tax period(s) all persons for whom Douglas Mesadieu and his managers and preparers prepared federal tax returns or claims for a refund for tax years beginning in 2008 and continuing through this litigation;

M. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring Douglas Mesadieu to produce to counsel for the United States, within thirty days of the Court's order, a list that identifies by name, address, e-mail address, and telephone number all principals, officers, managers, franchisees, employees, and independent contractors of Mesadieu, LBS Tax Services, Milestone Tax Services, Tax Advance, Inc., Platinum Capital Group, Inc., Princeton Capital Group, Inc., Galleon Capital Group, Inc., Santa Maria Group, Inc., and Tax Aid, LLC, from 2009 to the present;

N. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Douglas Mesadieu to provide a copy of the Court's order to all principals, officers, managers, franchisees, employees, and independent contractors of Mesadieu, LBS Tax Services, Milestone Tax Services, Tax Advance, Inc., Platinum Capital Group, Inc., Princeton Capital Group, Inc., Galleon Capital Group, Inc., Santa Maria Group, Inc., and Tax Aid, LLC, within fifteen days of the Court's order, and provide to counsel for the United States within 30 days a signed and dated acknowledgment of receipt of the Court's order for each person whom Douglas Mesadieu provided a copy of the Court's order;

O. That the Court retain jurisdiction over Douglas Mesadieu and over this action to enforce any permanent injunction entered against him;


P. That the United States be entitled to conduct discovery to monitor Douglas Mesadieu's compliance with the terms of any permanent injunction entered against him; and

Q. That the Court grant the United States such other and further relief, including costs, as is just and reasonable.

DATED: September 23, 2014

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